# Reforming the Special and Local Laws

## Why in news?

The recent tabling of Bills to amend the criminal laws has neglected the Special and Local Laws (SLLs) which encompass most critical offences and procedures.

## What is Special and Local laws (SLL)?

- Cognizable crimes are categorized either under the 'Indian Penal Code (IPC)' or under the 'Special and Local Laws (SLL)'.
- The Special and Local Laws identify criminal activities that the state government frames for *specific issues*.
    - For instance, the legislation that prohibits the selling of lottery tickets applies only to the state of Tamil Nadu
- Special laws are applicable to *particular subject* and local laws are applicable to *particular part of India.*
- In case of conflict, the *local/special laws will prevail over Indian Penal Code.*

## Why Special and Local Laws needs reform?

- **Wider coverage**- Recent bills on criminal laws in the Indian Penal Code (IPC), Code of Criminal Procedure (CrPC) and Indian Evidence Act represent just one facet of a general criminal law.
- **High registration of cases**- As per the Crime in India Statistics of 2021, nearly 39.9% of all cognisable offences registered in 2021 were under SLLs.
- **Low quality**- SLLs have given rise to several fundamental debates, discourses and discussions regarding the limits on the state's power of criminalisation especially in the context of violation of individual rights and liberties.
- **Vague definition**- SLLs such as the Unlawful Activities (Prevention) Act, 1967 (UAPA) and the Maharashtra Control of Organised Crime Act, 1999 (MCOCA) suffer from deficient, ambiguous and vague definitions.
- **Increased burden**- The Protection of Children from Sexual Offences Act, 2012 is criticised for its applicability to consensual sexual activities between minors.
- **Criminalisation** - Concerns have also been raised regarding criminalisation of such conduct through SLLs which would otherwise fall within the domain of civil case.
- **Complexity-** The Supreme Court in the case of P*. Mohanraj versus M/s Shah Brothers Ispat Ltd. (2021)* referred to Section 138 of the Negotiable Instruments Act, 1881 and called it as a 'civil sheep' in a 'criminal wolf's' clothing.

*Section 138 deals with the dishonour of cheques on the ground of insufficiency of funds, which is a statutory offence. There can be many reasons for the dishonour of a cheque. However, cheque bouncing is a criminal offence in case of the*

*cheque being dishonoured despite legal notice payment is not made.*

- The court ruling reflected the fact that dishonour of cheques is a civil offence but it is considered as a criminal offence in Section 138.
- **Dilution of due process of law**- The universally accepted due process values have been diluted through SLLs such as
  - Increased powers of search and seizure under Section 43A of the UAPA
  - Admissibility of confessions recorded by police officers under Section 18 of the MCOCA.

*Due process of law is a fundamental, constitutional guarantee that all legal proceedings will be fair and that one will be given notice of the proceedings and an opportunity to be heard before the government acts to take away one's life, liberty, or property.*

- **Stringent provisions**- It is provided under UAPA, Narcotic Drugs and Psychotropic Substances Act, 1985 and Prevention of Money Laundering Act (PMLA) 2002 which made the grant of bail a near impossibility.

## What lies ahead?

- It is imperative that a second generation of reforms be brought in, in order to reform the SLLs.
- All SLLs which criminalise or seek to criminalise a conduct should find a place as separate chapters within the larger structure of the penal code.
- All SLLs which create a separate procedure for reporting of offences, arrest, investigation, prosecution, trial, evidence and bail must be included either as separate procedures within the CrPC or as exceptions to the general provisions provided therein.

## Reference

[The Hindu- Why special and local laws need to be reformed]

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