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POLITY & INTERNATIONAL RELATIONS I

Shankar IAS Academy

Door No 18, New Plot No 259,
AL Block, 4th Avenue, Shanthi Colony,
Anna Nagar, Chennai 600040.

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POLITY & INTERNATIONAL RELATIONS I

1. RIGHTS ISSUES

1.1 Double Jeopardy

- **Article 20(2) of the constitution** deals with Double Jeopardy.
- It mandates that a person cannot be prosecuted or punished twice for the same offence.
- A corruption case was filed by the Aizawl police in 2009 against one, Dr.Singhania.
- Prevention of Corruption Act forbids trail against public servant without earlier sanctions from competent authority.
- So the Special Court discharged the case as Commissioner-Secretary, Department of Personnel issued sanction directly without the Governor's approval.
- Following this, a fresh sanction was issued by the Governor.
- But the special court declined the second chargesheet filed on the ground of double jeopardy and the Gauhati High Court upheld the special court's decision.
- Recently, the Supreme Court has quashed this and held that the principles of double jeopardy will not apply when the accused was discharged due to lack of proper sanction.
- It clarified that there is no bar for filing fresh/supplementary charge sheet after obtaining a valid sanction for prosecution.
- It explained that double jeopardy will not apply if the accused has not been tried at all.

1.2 Remission of Convicts

- Three girls of Tamil Nadu Agricultural University were burnt alive when their bus was set afire by 3 after Jayalalithaa was convicted in a corruption case in 2000.
- Three convicts were initially sentenced to death, but the punishment was commuted to life in prison by the Supreme Court 2 years ago.
- They were recently granted remission and set free. TN governor cleared the government's recommendation to release them prematurely.
- The Governor had earlier returned the file seeking remission of their life sentence for reconsideration by the government.
- However, the State sent back the file sticking to its stand, following which the governor accepted the recommendation to release them.
- **Legal provision - Section 433A of CrPC** deals with the restriction of powers of remission or commutation in certain cases.
- It says that, a sentence of death imposed on a person has been commuted under section 433 into one of imprisonment for life, such person shall not be released from prison unless he/she had served at least 14 years of imprisonment.
- **Constitutional provisions** – Article 72 and 161 of the constitution deals with the pardoning power of President and Governor respectively.
- **Article 72** - The President shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence -
 - a. in all cases where the punishment or sentence is by a Court Martial;
 - b. in all cases where the punishment or sentence is for an offence against any law relating to a matter to which the executive power of the Union extends;
 - c. in all cases where the sentence is a sentence of death.



- **Article 161** - The Governor of a State shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence against any law relating to a matter to which the executive power of the State extends.
- **Article 72 vs 161** - The power of the President to grant pardon extends in cases where the punishment or sentence is by a Court Martial, but Article 161 does not provide any such power to the Governor.
- The President can grant pardon in all cases including the one with death sentence, but pardoning power of Governor does not extend to death sentence cases.
- **Supreme Court's Direction** - The power under Articles 72 and 161 of the Constitution can be exercised with the aid and advice of the Central and State Governments, not by the President or Governor on their own.
- The grant of pardon by the President is an act of grace and, therefore, cannot be claimed as a matter of right.
- The power exercisable by the President being exclusively of administrative nature, is not justiciable.
- A **limited judicial review** of exercise of clemency powers is available to the Supreme Court and High Courts.
- Granting of clemency by the President or Governor can be challenged on the following grounds:
 - i. The order has been passed without application of mind.
 - ii. The order is mala fide.
 - iii. The order has been passed on extraneous or wholly irrelevant considerations.
 - iv. Relevant material has been kept out of consideration.
 - v. The order suffers from arbitrariness.
- **Process of Granting Pardon** – Filing of mercy petition under Article 72 is sent to Ministry of Home Affairs.
- After consulting with State Governments, Ministry then makes recommendation to the President.

- **Pardon** - It removes both the sentence and the conviction and completely absolves the convict from all the sentences, punishments and disqualifications.
- **Commutation** - It denotes the substitution of one form of punishment for a lighter form.
- **Remission** - It implies reducing the period of sentence without changing its character.
- **Respite** - It denotes awarding a lesser sentence in place of one originally awarded due to some special fact, such as the physical disability of convict or the pregnancy of a woman offender.
- **Reprieve** - It implies a stay of the execution of a sentence (especially that of death) for a temporary period. Its purpose is to enable the convict to have time to seek pardon or commutation from the President/Governor.

1.3 Legal Entity for Animal Kingdom

The Uttarakhand High Court has declared the entire animal kingdom, including birds and aquatic animals, as a legal entity having rights of a "living person".

- The court has invoked **Article 21** of the Constitution - safeguarding the rights of humans, protects life.
- The court has clarified that the word 'life' includes animal world.
- According to the judgement, Legal Entity means "The entity acts like a natural person but only through a designated person, whose acts are processed within the ambit of law".
- This means the animal kingdom could be represented by a custodian.
- It declared all citizens of Uttarakhand "persons in loco parentis" (in the place of a parent) giving them the responsibility to protect animals and ensure their welfare.
- The high court, last year accorded the status of "living entity" to the Ganga and Yamuna rivers, a decision subsequently stayed by the Supreme Court.

1.4 Religious Minority Status to Jews

The Gujarat government has granted religious minority status to the Jewish community in the State.

- Gujarat is the third state in India to accord minority status after Maharashtra and West Bengal.
- It will enable the community to get benefits of welfare schemes formulated for religious minority communities.

- Gujarat is home to about 170 Jews, mostly centered in the western city of Ahmedabad, which is home to the only synagogue in the state, the Magen Abraham Synagogue, built in 1934.

Minorities and the Constitution

- The Constitution does not define the word “Minority” but used it exclusively in the Articles 29, 30 & 350.
- **Article 29** of the constitution deals with the Protection of interests of minorities. According to it,
 - i. Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same
 - ii. No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.
- **Article 30** of the constitution deals with right of minorities to establish and administer educational institutions.
 - i. All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.
 - ii. In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, the State shall ensure that the amount determined under such law would not restrict or abrogate the right guaranteed under the above clause.
 - iii. The state shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.
- **Article 347** – Special provision relating to the language spoken by a section of the population of any State.
- **Article 350 A** – Provision for facilities for instruction in mother-tongue at primary stage.
- **Article 350 B** – Provision for a Special Officer for Linguistic Minorities and his duties.
- **Supreme Court’s Direction** – In TMA Pai Foundation Vs State of Karnataka case, SC has held that the position that the minority status of a community is to be decided with reference to the State population and not taking into consideration the population of the Country as a whole.
- **National Commission for Minorities Act** – Under the act, six communities are declared as minority communities in the country - Muslims, Christians, Sikhs, Buddhists, Zoroastrians (Parsis) and Jains.

1.5 SC/ST Reservation - Home State

A Supreme Court bench has held that scheduled castes or tribes can avail benefit of reservation in government jobs only in their home states.

- **SC's rationale** - A particular community is notified as SC/ST in relation to a state. They do not necessarily carry the same status in another state or UT.
- So the concept would become invalid if migrants from other states are automatically within its ambit.
- The Court has thus upheld the “son of the soil” principle.
- For the purpose of Articles 341 and 342 in Constitution, the reservation benefits would be within the geographical territories of a state or UT.
- Also, Presidential Orders issued under Article 341 and 342 cannot be varied or altered.
- So, the state could not alter the list of SCs or STs by including other castes or tribes.
- This can be **done only by Parliament**, and states doing so will lead to constitutional anarchy.
- **Concerns** - The idea implicit in the judgment is that state reservations are for state ‘citizens’ and not ‘outsiders’.
- It makes only the upper castes to enjoy the rights of mobility across India without paying a cost.



- This makes reservations subjective if granted by the state, and not the Centre.

Article 341 and 342

- Article 341 of the constitution define as to who would be Scheduled Castes with respect to any State or UT.
 - Article 342 of the constitution define as to who would be Scheduled Tribe (ST) with respect to any State or UT.
 - The President, in consultation with the Governor of a particular State, may notify the castes, races or tribes be deemed to be Scheduled Castes (A-341) and to be Scheduled Tribes (A-342).
 - Parliament may by law include in or exclude any caste, race or tribe from the list of SC and ST specified.
 - **Reservation in services/post** - The following are the relevant articles which govern the reservation in services/post for SC/STs.
1. **Article 16(4)** of the constitution enables State to provide reservation in appointments in favour of any backward class of citizens who are not adequately represented in the services under the State.
 2. **Article 46** of the Constitution directs the State to promote the educational and economic interests of the weaker sections of the people and protect them from all forms of exploitation.
 3. **Article 335** states that the claims of the members of the SC and ST shall be taken into consideration in the making of appointments to services and posts in connection with the affairs of the Union or of a State.
 4. It shall be consistently with the maintenance of efficiency of administration.

1.6 Repatriation of Bru refugees

The Centre and the state governments of Tripura and Mizoram has recently signed an agreement for repatriation of Bru community from Tripura to Mizoram.

- In 1990s, Mizo nationalists had demanded that the Brus be left out of the state's electoral rolls, contending that the tribe was not indigenous to Mizoram.
- The Bru militancy was a reactionary movement against Mizo nationalist groups.
- In 1997, the murder of a Mizo forest guard at the Dampa Tiger Reserve in Mizoram allegedly by Bru militants led to a violent backlash against the community.
- It forced several thousand people belonging to Bru community to flee to neighbouring Tripura.
- The displaced Bru people from Mizoram have been living in various camps in Tripura since 1997.
- According to the recent agreement, the central government will provide financial assistance for rehabilitation of Bru community members in Mizoram.

1.7 Maratha Reservation Demand

Maharashtra Cabinet recently ratified a decision to grant reservation to the Maratha community under a newly created, independent category called Socially & Educationally Backward Class.

- The decision to grant reservation was taken after Maharashtra State Backward Class Commission (MSBCC) submitted a report on the Maratha community.
- The report states that the community was socially, economically and educationally backward.
- A Cabinet subcommittee constituted to implement the quota will fix the quantum of reservation.
- At present, the total reservation in the state is 52%, of which the larger quotas are for SC (13%), ST (7%) and OBC (19%).
- The rest being for Special Backward Class, VimuktiJati, Nomadic Tribe (B), Nomadic Tribe (C) (Dhangar) and Nomadic Tribe (D) (Vanjari).

Marathas

- They are a Marathi-speaking, politically dominant community in Maharashtra.
- They make up about one-third of the population of the state.
- Historically, they have been identified as a warrior class with large land-holdings.
- Division of land and agrarian problems have led to a decline of prosperity among middle-class and lower-middle-class Marathas.
- Nevertheless, the community still plays an important role in the rural economy.
- Since the formation of Maharashtra state in 1960, 11 of its 18 chief ministers have been from the Maratha community.

- The government has clarified that the newly created quota will not affect the existing reservation sections in the State, as it is given under an independent category.
- **Supreme Court Ruling** – According to the judgment in **Indra Sawhney vs Union of India case, 1992**, the total reservation for SC/ST and other backward classes or special categories should not exceed 50%.
- **Reservation in other States** – In Tamil Nadu, a quota of 69% in employment and education has been provided.
- However, for the time being it is protected by its inclusion in the Ninth Schedule of the Constitution.
- In Haryana, the government has passed a bill in 2016, providing reservation to Jat community, after a violent protest by them, which has led to the reservation in the State going to 70%.
- The State HC has stayed its implementation after hearing a PIL and SC ordered status quo of the HC verdict.
- In Rajasthan, the government has promised 5% quota to Gujjars following agitation.
- SC has interfered and held that quota in jobs and education in the state has exceeded the 50% cap and it cannot be stretched further.

1.8 Restricted Areas Permit

- Under the Foreigners (Restricted) Areas Order, 1963, entire Andaman & Nicobar Islands and part of the Sikkim State have been declared as 'Restricted' Areas.
- A foreign national (except Bhutan) is not normally allowed to visit the restricted areas.
- They require a special permit from the competent authority delegated with powers to issue such a special permit or from Ministry of Home affairs.
- Some areas are notified by the Union Government from time to time that allows foreigners to visit restricted areas with a view to promote tourism.
- Union Home Ministry has recently excluded Andaman & Nicobar Islands from the Restricted Area Permit (RAP) till December 31, 2022.
- It was notified subject to condition such as,
 1. Citizens of Afghanistan, China and Pakistan would continue to require RAP to visit the UT,
 2. Citizens of Myanmar will continue to require RAP, which shall be issued only with the prior approval of the Home ministry,
 3. Separate approvals of the competent authority would be required for visiting reserved forests, wildlife sanctuaries and tribal reserves.

1.9 Misuse of Unlawful Activities Prevention act

Several human rights activists, communist thinkers, & Dalit voices are being detained under the UAPA act recently.

- **Provisions** - The Act introduces a vague definition of terrorism to encompass a wide range of non-violent political activity including political protest.
- The Act empowers the government to declare an organisation as "terrorist" and ban it.
- Even being a member of such a proscribed organisation becomes a criminal offence.
- It **deprives** the accused of the **right to bail**, which forces them to a long period of detention.
- It gives leave to the prosecution to file a charge sheet in 180 days rather than the usual mandate of 90 days.
- The act also allows police to remand for over 30 days as opposed to the 14 days under the IPC.
- But the NCRB Statistics indicate that 67% of the cases under the act end up either in acquittal or discharge of the persons accused.
- The Act contains neither sunset clause nor provisions for mandatory periodic review.
- **Supreme Court's directive** - In **Kedar Nath vs. State of Bihar** (1962), SC provided the scope within which a citizen is legally permitted to voice their protest against a government or organise opposition to it even for a constitutional purpose.

- It clarified that the freedom of speech has three components: **Discussion, advocacy and incitement**.
- It says that only when discussion and advocacy reach the level of incitement not just in words but deeds to provoke people to violate the law, it falls under Section 124 A of the IPC.
- Hence recent convictions of 'reading socialist or communist literature must be inciting violence', without evidence, are in fact an **extra-legal act** of violence by the state upon the citizen.

Section 124a of IPC

- Section 124a, commonly known as **Sedition law** made words or any visible representation that attempts to bring hatred or contempt, or excite "disaffection" towards the government punishable by law.
- They shall be charged with cognizable and non-bailable offence with punishment upto imprisonment for life & fine or imprisonment for 3 years & fine or with fine alone.
- The expression "disaffection" includes disloyalty and all feelings of enmity.
- It was introduced in the 1870s, originally to deal with increasing Wahabi activities that posed a challenge to the colonial government.
- The section has been misused in recent times to suppress even minor dissent.
- **Non-bailable offence** – The police cannot release anyone on bail and so the arrested person has to make an application for bail before a magistrate or court.

1.10 Draft Resolution on Death Penalty

- United Nations General Assembly has recently approved a resolution against death penalty.
- It was approved with a recorded vote of 123 in favour, 36 against and 30 abstentions.
- India has voted against the draft resolution saying it goes against the statutory law of the country where an execution is carried out in the "rarest of rare" cases.
- Singapore has introduced an amendment on behalf of 34 countries.
- The amendment reaffirmed the countries' sovereign right to develop their own legal system, including determining appropriate legal penalties, in accordance with their international law obligations.
- India voted in favor of this amendment.
- The resolutions adopted by the UNGA on agenda items are recommendations and are not legally binding on the Member States.
- The only resolutions that have the potential to be legally binding are those that are adopted by the Security Council.

2. PARLIAMENT AND STATE LEGISLATURE

2.1 Significance of Art 35A and Art 370

The Supreme Court is hearing petitions challenging the validity of Art 35A.

- Art 35A empowers J&K to define a class of persons as constituting "permanent residents" of the State, who
 1. are eligible to vote
 2. can work for the state government
 3. can own land, buy property
 4. can secure public employment and college admissions, etc.
- Non-permanent residents are denied all these rights.
- It was added to the constitution through the Constitution (Application to Jammu and Kashmir) Order, 1954, a presidential order, which was, issued under **Article 370 (Part 21)** of the Constitution.



- The article allows the government to confer on these persons, special rights and privileges.
- These relate to matters of
 - i. public employment
 - ii. acquisition of immovable property in the State
 - iii. settlement in different parts of the State
 - iv. access to scholarships
 - v. other such aids that the State government might provide
- It exempts such legislation from being annulled on the ground that they infringe on any of the fundamental rights.
- **Pending case - Puranlal Lakhanpal vs. The President of India (1961)** discusses the President's powers under Article 370 to 'modify' the Constitution.
- Though the court observes that the President may modify an existing provision in the Constitution under Article 370, the judgment is silent as to whether the President can, without the Parliament's knowledge, introduce a new Article. This question remains open.
- A petition was filed questioning the same and to consider immunity granted under Article 35A to J&K's laws as discriminatory.
- It thus calls for declaring Art 35A unconstitutional.
- A three-judge Bench of the court intends to consider if Article 35A infringes the Constitution's basic structure.
- Based on this, it would decide if the case has to be referred to a larger bench for further examination.

Article 370

- Article 370 of Indian constitution grants special autonomous status to the state of Jammu and Kashmir.
- This provides Temporary, Transitional and Special Provisions to J&K.
- The State's Constituent Assembly was empowered to recommend the articles of the Indian constitution to be applied to the state or to repeal the Article 370 altogether.
- Special status is guaranteed by the Constitution of India through an Act passed by the two-third majority in both houses of the Parliament.

Jammu and Kashmir - A Special Case

- **Article 370** accorded to J&K a set of special privileges, which includes an exemption from constitutional provisions governing other States.
- Under **J&K's Instrument of Accession**, it restricted Parliament's powers to legislate over the State to three core subjects - Defence, Foreign affairs and Communications.
- Parliament could legislate on other areas only through an express presidential order. This should be made with the prior concurrence of the State government.
- For subjects beyond the Instrument of Accession, the further sanction of the State's Constituent Assembly was also mandated.
- Finally, the Art 370 also granted the President the power to make orders declaring the provision inoperative.
- But this authority could be exercised only on the prior recommendation of the State's Constituent Assembly.
- Even changes made to the Constitution under Article 368 will not mechanically apply to J&K.
- For such amendments to apply to the State, specific orders must be made under Article 370.
- This is only after securing the J&K government's prior assent.
- Moreover, such amendments will also need to be ratified by the State's Constituent Assembly.
- So evidently, Art 370 represents the only way of taking the Indian Constitution into J&K.
- Also, Article 370 is as much a part of the Constitution as Article 368, thereby to justify the validity of Art 35A.

2.2 Usage of Private member bill in parliament

Demands for a private legislation to construct Ram temple in Ayodhya lead to the analysis of private member bill's usage in parliament so far.

- **Private member bill** - Any MP who is not a Minister is referred to as a private member.

- The key role of the parliament is to debate and make laws and both Ministers and private members contribute to the law-making process.
- Bills introduced by Ministers are referred to as government bills.
- They are backed by the government and reflect its legislative agenda.
- However, Private member's bills are piloted by non-Minister MPs.
- Their purpose is to draw the government's attention to what individual MPs see as issues and gaps in the existing legal framework, which require legislative intervention.
- **Mode of introduction in the House** - The admissibility of a private member's Bill is decided by the Rajya Sabha Chairman in the case of Rajya Sabha.
- In the case of Lok Sabha, it is the Speaker, while the procedure is roughly the same for both Houses.
- The Member must give at least a month's notice before the Bill can be listed for introduction.
- The House secretariat examines it for compliance with constitutional provisions and rules on legislation before listing.
- A maximum of **three** private member's Bills can be introduced **per session**.
- While government Bills can be introduced and discussed on any day, private member's Bills can be introduced and discussed **only on Fridays**.
- **Procedure for its introduction** - On the scheduled Friday, the private member moves a motion for introduction of the Bill, which is usually not opposed.
- Only a fraction of private member's bills that are introduced, are taken up for discussion.
- Rajya Sabha draws a ballot to decide the sequence of discussion of Bills.
- If a Bill is successful in the ballot, it has to wait for the discussion to conclude on a Bill currently being debated by the House.
- For example, a Bill related to sittings of Parliament introduced in March 2017 was taken up for discussion only in August 2018.
- The discussion of this bill will resume when private member business is taken up in the upcoming Winter Session, and other private member's bills will have to wait for the debate to conclude.
- Over the last three years, Rajya Sabha saw the introduction of 165 private member's Bills and the discussion was concluded on only 18.
- A private member's Bill that is introduced but not discussed in Rajya Sabha, lapses when Member retires.
- Upon conclusion of the discussion, the Member piloting the Bill can either withdraw it on the request of the Minister concerned, or he may choose to press ahead with its passage.
- In the latter case, the Bill is put to vote and, if the private member gets the support of the House, it is passed.
- In 1977, Rajya Sabha passed a private member's Bill to amend the Aligarh Muslim University Act.
- The Bill then went to the sixth Lok Sabha, where it lapsed with the dissolution of the House in 1979.
- A bill pending in the Lok Sabha lapses, whether it originates in the Lok Sabha or transmitted to it by the Rajya Sabha.
- In 2015, Rajya Sabha passed The Rights of Transgender Persons Bill, 2014 as a private member's Bill. The Bill is now pending before Lok Sabha.
- The last time a private member's Bill was passed by both Houses was in 1970, which was the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Bill, 1968.
- Fourteen private member's Bills, five of which were introduced in Rajya Sabha, have become law so far.
- Some of the important legislations among them include **26th amendment**, which related to abolition of privy purses and 61st amendment, which reduced the voting age from 21 to 18.



2.3 Ruling Delhi

The Supreme Court has held that the Lieutenant-Governor (L-G) is bound by the “aid and advice” of the Government in Delhi.

- **Administration of UT** - Every UT is administered by the President through an Administrator appointed by him.
- The Administrator has powers similar to that of the Governor but he is just a representative of the President and not the constitutional head of the state.
- The administrator may be designated as Lieutenant Governor, Chief Commissioner or Administrator.
- The powers and functions of Administrator are defined under Article 239 and 239A of the Constitution.
- **Article 239** also says that the President may appoint the Governor of a State as the administrator with such designator as he may specify.
- **Article 239A** provides power to the parliament to create local legislatures or Council of Ministers or both for certain Union Territories.
- In accordance with Article 239A, the union territories of Puducherry and Delhi are provided with legislative assembly and council of ministers headed by a Chief Minister.
- The remaining 5 UTs do not have such institutions.
- The legislature of Puducherry can make laws on State List and Concurrent List.
- Delhi is administered under **Article 239 AA**, which creates a “special” constitutional set up for Delhi.
- Article 239 AA was incorporated in the Constitution in 1992.
- It has provisions for popularly elected assembly, a council of ministers responsible to the assembly and a certain demarcation of responsibilities between the LG and the council of ministers.
- As per Article 239 AA (3) (a), the Delhi assembly can legislate on all those matters listed in the State List and Concurrent List as are applicable to union territories except public order, police and land.
- Any such law which gives effect to Article 239A will not be considered as the constitution amendment act.
- Despite these, the Parliament can make laws for Union Territories on subjects of State List, including Delhi & Puducherry.

Present Case

- Delhi High Court in 2016 has declared that the L-G has complete control of all matters regarding the NCT of Delhi.
- It said that nothing would happen without the concurrence of the L-G.
- NCT government has appealed against the verdict in Supreme Court and the present judgement is the outcome of that appeal.
- **Ruling** – The Supreme Court made it clear that Delhi enjoys a unique position under the constitution, but the L-G is bound by the aid and advice of the elected government.
- There is no independent authority with the LG to take decisions except in matters under Article 239 or those outside the purview of the National Capital Territory (NCT) government.
- In case of difference of opinion between the L-G and NCT government, L-G should straightaway refer it to the President.
- SC cautioned the L-G against sending every “trivial” dispute to the President. The power to refer “any matter” to the President no longer means “every matter”.
- It has indicated that it could encompass substantial issues of finance and policy.
- It also held that LG is not a Governor but only an “administrator in a limited sense.”
- Except for the three issues, over which Centre has exclusive power, Delhi government must be allowed to legislate and govern on other issues and L-G cannot stall decisions mechanically.

2.4 Code of Conduct for Members of Legislature

Rajya Sabha Chairman has urged political parties to evolve a consensus on the code of conduct for members of legislatures.

- A Code of Conduct for members of Rajya Sabha has been in force since 2005.
- However, there is **no such code for the Lok Sabha**.
- A code for Union ministers was adopted in 1964, and state governments were advised to adopt it as well.
- **Code of Conduct in Rajya Sabha** - A 14-point Code of Conduct for members of the Upper House includes the following:
 1. In case of conflict between personal interests and public trust, members should resolve it, with private interests subordinated to the duty of public office.
 2. Members should ensure that their and members of their immediate family's private financial interests do not come in conflict with the public interest
 3. In case of any such conflict, it must be resolved without compromising the public interest.
 4. Members should never expect or accept any fee, remuneration or benefit for a vote given or not given by them on the floor of the House. This would apply to
 - i. introducing a Bill
 - ii. moving a resolution or desisting from moving a resolution
 - iii. putting a question or abstaining from asking a question
 - iv. participating in the deliberations of the House or a Parliamentary Committee
- Besides, the Rules of Procedure and Conduct of Business in the Council of States specify some provisions.
- It mandates maintaining a 'Register of Member's Interests' in such form as may be determined by the Ethics Committee.
- This shall be available to members for inspection on request and to citizens under the RTI Act.
- **Code in Lok Sabha** – The first Ethics Committee in Lok Sabha constituted in 2000.
- It presented its report to the Speaker in 2014, which is related to the amendments to the Rules of Procedure and Conduct of Business in Lok Sabha.
- The report said that the Ethics Committee shall formulate a Code of Conduct for Members.
- The matter has since been pending with the Ethics Committee.

2.5 Second Chamber in States

Odisha's plan calls for a national policy on the utility of a second chamber in States (State Legislative Council).

- **Article 169** of the Constitution provides for creation or abolition of legislative councils in the States.
- According to it, Parliament may by law provide for the creation of such council if the State assembly passes a resolution to that effect by
 - i. A majority of the total membership of the Assembly i.e absolute majority &
 - ii. A majority of not less than $2/3^{\text{rd}}$ of the members of the Assembly present and voting.
- Any amendment brought to change the above provisions in Article 169 shall not be deemed to be an amendment under Article 368 of the Constitution.
- **Article 171** of the Constitution deals with the composition of Legislative Councils.
- It says that the total number of members in the council
 - i. shall not exceed $1/3^{\text{rd}}$ of the total number of members in the Legislative Assembly of that State and
 - ii. shall not be less than 40

- **Note** - In Jammu & Kashmir, as per Section 50 of the state's Constitution, the Assembly has 87 members and the Legislative Council 36.
- The members of the council are elected by the selective electorate as Parliament may by law specifies.
 - i. 1/3rd shall be elected by members of municipalities, district boards and such other local authorities in the State
 - ii. 1/12th shall be elected by graduates (from any university in India) residing in the State or possession of qualifications prescribed by any law made by Parliament.
 - iii. 1/12th shall be elected by persons engaged in teaching within the state for at least 3 years, not lower in standard than that of a secondary school
 - iv. 1/3rd shall be elected by the members of the Legislative Assembly of the State from amongst persons who are not members of the Assembly
 - v. the remainder shall be nominated by the Governor, consists of persons having special knowledge in Literature, science, art, co-operative movement and social service
- The elections shall be held in accordance with the system of proportional representation by means of the single transferable vote.
- As with Rajya Sabha MPs, the tenure of a MLC is 6 years, with one-third of the members retiring every two years.
- **States with Legislative Council** – Currently, 7 states have legislative council, as shown in the picture.
- Proposals to create Councils in Rajasthan and Assam are pending in Parliament.
- A parliamentary committee that went into these Bills cleared the proposals, but struck a cautionary note.
- It wanted a national policy on having an Upper House in State legislatures to be framed by the Union government.
- This is to ensure that a subsequent government in the State does not abolish it.
- It also favoured a review of the provision in the law for Councils to have seats for graduates and teachers.

STATES WITH TWO HOUSES		
State	MLA seats*	MLC seats
Andhra	176	58
Bihar	243	75
J&K	89	36
Karnataka	225	75
Maharashtra	289	78
Telangana	119	40
UP	404	100

*Including nominated members

2.6 Deputy Chairman - Rajya Sabha

- Harivansh Narayan Singh was elected as the Deputy Chairman of the Rajya Sabha recently.
- **Article 89** of the constitution has the provision about the method of the election of Deputy chairman.
- The Deputy Chairman is elected from amongst the Rajya Sabha members.
- The chairman of Rajya Sabha (Vice President of India) presides over the session of election of Dy. Chairman.
- She/He presides over the proceedings of the Rajya Sabha in the absence of the Chairman of the Rajya Sabha.
- She/He will also perform the functions the Chairman in case of a vacancy or when the VP is discharging the functions of the President.
- There is also a panel of six Vice-Chairmen, which is constituted every year.
- A Vice-Chairman presides over the meeting of the Rajya Sabha in the absence of the Chairman or the Deputy Chairman.

2.7 Disqualification of MLA

- Kerala High Court has recently declared the election of Indian Union Muslim League MLA from the Azhikode assembly constituency as **invalid** for indulging in corrupt practices.
- He was disqualified for corrupt practices covered under the Section 123(3) and 123(4) of RPA 1951.
- Under section 123 of RPA, if a candidate or his agent appeals for votes on religious, caste, community, race and language grounds, it would amount to corrupt practice

- The court declared the election of MLA citing that he appealed to the voters to vote for Muslim community candidate.
- The court also disqualified him from contesting any election for period of **6 years**.
- The findings of the court have been forwarded to the President for appropriate action.

3. JUDICIARY

3.1 SC/ST Quota in Promotions

- Article 16 (4A) of the Constitution provides for reservation for promotion only to SCs and STs.
- **2006 Judgement** – In **M Nagaraj & Others vs Union of India case**, the SC had ruled that that the state was **not bound** to provide reservation in promotions to SCs/STs.
- However, if the state wanted to exercise its discretion, they were free to do so, only if they prove
 - i. that the particular Dalit community is backward
 - ii. it was inadequately represented
 - iii. such a reservation would not affect the overall efficiency of public administration
- The opinion of the government should also be based on **quantifiable data**.
- Additionally, the state was also required to ensure that the reservation in promotion does not breach the 50% ceiling.
- It said that the 'creamy layer' concept also applies to SCs and STs for promotions in government jobs. (Contradicting the view point made in Indra Sawhney judgment)
- The state will have to ensure that its reservation provision does not lead to excessiveness.
- The Centre and various state governments had sought reconsideration of the verdict.
- They argued that members of the SC/ST communities were presumed to be backward and considering the stigma attached to their caste, they should be given reservation even in job promotions.
- The constitution bench has taken up the case recently and gave verdict.
- **Present Ruling** - SC had reversed the earlier judgment and ruled that States **need not collect quantifiable data** on the backwardness for giving quota in job promotion to SC/ST employees
- It said that it was contrary to the decision in Indira Sawhney case, where it was held that once SCs and STs were part of the Presidential List under Articles 341 and 342 of the Constitution, and there was no need to prove backwardness.
- At the same time, the apex court says that **the inadequacy of representation of SC/ST needs to be demonstrated** and data must be relatable to the concerned cadre.
- The data on the inadequacy of representation in the cadre must be collected by the states.
- SC/ST population as a whole should not be taken into account, while calculating inadequacy.
- The collected data can also be tested by the courts.
- When it comes to promotion of SC/ST employees, the court held the earlier view that the creamy layer concept does apply.
- So now, only in direct recruitment of the SC/STs, the creamy layer concept does not apply.
- However, the state governments have the discretion to invoke Articles 16 (4A) and 16 (4B).
- This is to provide for reservations in promotions for Scheduled Castes and Scheduled Tribes with consequential seniority.
- "Consequential seniority" is when an SC/ST employee is promoted purely on reservation basis despite another person waiting for promotion is actually senior to him/her.
- The court also said that "efficiency of administration" has to be looked at every time promotions are made.

3.2 SC Verdict on Women's Entry into Sabarimala Temple

The Supreme Court, in a recent judgement, allowed women, irrespective of their age, to enter Kerala's Sabarimala temple.

- **Temple's legal stand** - It relates to Rule 3(b) of the Kerala Hindu Places of Public Worship (Authorisation of Entry) Rules, 1965.
- It states, "Women who are not by custom and usage allowed to enter a place of public worship shall not be entitled to enter or offer worship in any place of public worship."
- It is based on this provision that the Sabarimala temple prohibits women aged between 10 and 50 years.
- It claims, through the Travancore Devaswom Board, that its deity, Lord Ayyappa, is a "Naisthik Brahmachari."
- So allowing young women to enter the temple would affect the idol's "celibacy" and "austerity".
- The Travancore Devaswom Board (TDB) had argued that they form a denomination and hence be allowed to make rules.
- Religious Rights - The Constitution protects religious freedom in two ways:
 - i. protects an individual's right to profess, practise and propagate a religion
 - ii. assures protection to every religious denomination to manage its own affairs
- The Sabarimala temple case represented a conflict between **the group rights of the temple** authorities in enforcing the presiding deity's strict celibate status and **the individual rights of women** in 10-50 age group to offer worship there.
- **Present Ruling** - In a 4-1 majority, the court struck down provisions of the Kerala Hindu Places of Public Worship Rules, 1965, which banned women between the age of 10 and 50 from entering the Sabarimala.
- The court ruled that Ayyappa devotees do not constitute a separate religious denomination.
- It held that prohibition on women is not an essential part of Hindu religion, and hence the court can intervene.
- The judgement establishes the principle that individual freedom prevails over professed group rights, even in matters of religion.
- **Social notions** - The judgement relooks at the stigmatisation of women devotees based on a medieval view of menstruation as symbolising impurity and pollution.
- It noted that exclusion based on the notion of impurity is a form of untouchability.
- Also, the argument that women of menstruating age could not observe the 41-day period of abstinence failed to make sense.
- The court noted that any rule based on segregation of women pertaining to biological characteristics is unconstitutional.
- **Dissenting Judge's remarks** - Justice Malhotra, the lone woman on the bench, noted that what constitutes essential religious practice is for the religious community to decide and not the court.
- Notions of rationality cannot be brought into matters of religions.
- Balance needs to be struck between religious beliefs on one hand and Constitutional principles of non-discrimination and equality on the other.
- So, issues of deep religious sentiments should not be ordinarily interfered into by the Court.

Uniqueness of Sabarimala case

- Lord Ayyappan of Sabarimala is worshipped as a celibate god.
- Pilgrims are expected to practice celibacy and abstinence during the 41-day vratam (pious observances).
- Sabarimala stands out among Kerala's temples spaces for its accommodation of all devotees irrespective of religion and caste.
- It has thus helped the shrine administrators to evade the rights test - in this case, that of women of a particular age group.
- The unique and site-specific tradition also kept it outside the purview of the historic temple entry protests.
- The Travancore Devaswom Board is thus likely to file a review petition after securing support from other religious heads.

3.3 Decision on Appointment of SC Judge

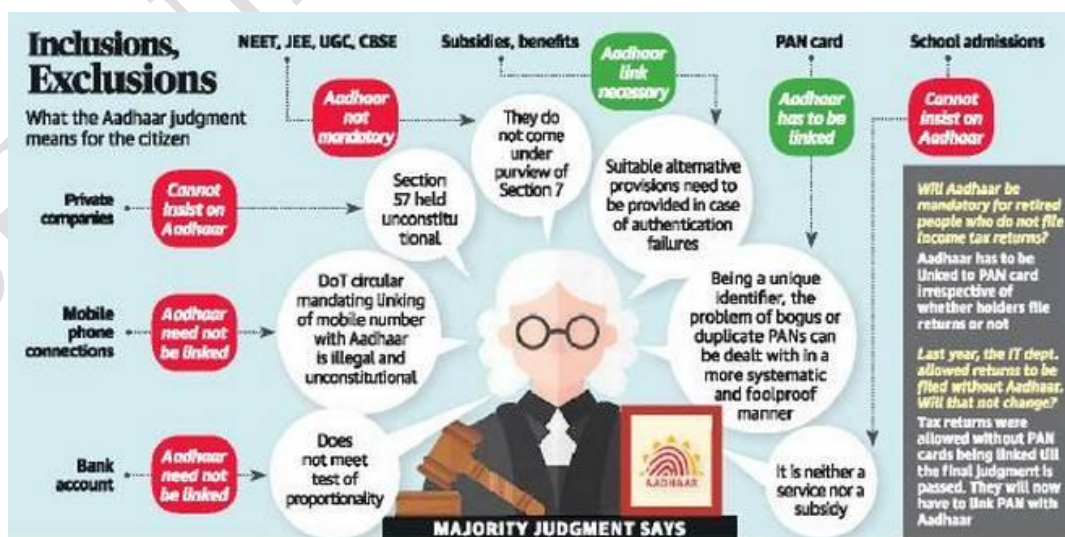
Union government has cleared the elevation of Justice K.M. Joseph to the Supreme Court.

- The Chief Justice of India and the Judges of the Supreme Court are appointed by the President under clause (2) of **Article 124 of the Constitution**.
- Whenever a vacancy is expected to arise in the office of a Judge of the Supreme Court, the CJI will initiate proposal.
- The recommendation will be forwarded to the Union Minister of Law, Justice and Company Affairs to fill up the vacancy.
- The opinion of the CJI for appointment of a Judge of the Supreme Court should be formed in consultation with a collegium of the four senior-most Judges of the Supreme Court.
- **Recent issue** - K.M Joseph was the chief justice of Uttarakhand high court.
- 5 member collegiums, earlier recommended K.M Joseph for elevation to the SC, and it was reiterated again.
- When collegium reiterates its recommendation, it is binding on the government.
- This is as per the law laid down by the SC in the Third Judges Case of 1998.
- Union government has made unusual delay in first responding to the Collegium's recommendation, and later it took more time for reconsideration of the proposal.
- The government's adherence to reiteration norm has not been consistent.
- The Centre had no option but to elevate the Uttarakhand High Court Chief Justice once the collegium reiterated its original recommendation after the Law Ministry returned his name.
- This had created stand-offs between judiciary and executive, and within the judiciary.

3.4 Supreme Court Verdict on Aadhaar

The Supreme Court recently upheld the constitutionality of the Aadhaar in its majority verdict (4 out of 5 judges).

- **Highlights of the majority verdict** - It called Aadhar "a document of empowerment".
- **Right to privacy** - Not all matters pertaining to an individual were an inherent part of the right to privacy.
- Only those matters in which there was a reasonable expectation of privacy were protected by Article 21 of the Constitution.
- In this context, the Aadhaar scheme passed the triple test laid down in the Puttaswamy (Privacy) judgment to check if it invades privacy viz.
 - existence of a law** - backed by the statute i.e. the Aadhaar Act



- ii. **a legitimate state interest** - to ensure that social benefit schemes reach the deserving community
- iii. **test of proportionality** - balances the professed benefits of Aadhaar and the potential threat it carries to the fundamental right to privacy
- **Money Bill** - Section 7 of the Aadhaar Act mandates that individuals should produce Aadhaar to access social services, subsidy, benefits, etc. and clearly declares that expenditure incurred would be from the Consolidated Fund of India.
- Since Section 7 is the main provision of the Act, the validity of the Aadhaar Act being passed as a Money Bill is upheld.
- **Surveillance state** - During the enrolment process, “minimal biometric data in the form of iris and fingerprints is collected”.
- Also, UIDAI “does not collect purpose, location or details of the transaction”.
- Hence the manner of operation of Aadhaar, “do not tend to create a surveillance state”.
- **Security of biometric data** - UIDAI has mandated only registered devices to conduct biometric-based authentication transactions.
- With these registered devices, the biometric data is encrypted within the device using a key.
- This creates a unidirectional relationship between the host application and the UIDAI.
- This also rules out any possibility of the use of stored biometric, or the replay of biometrics captured from another source.
- Further, as per the regulations, authentication agencies are not allowed to store the biometrics captured for Aadhaar authentication.
- **Telecoms** - Aadhaar-based re-verification of mobile numbers has been held illegal and unconstitutional as it was not backed by any law.
- As a result-
 - i. telecom cannot insist on customers to furnish Aadhaar details
 - ii. the provision that allowed private entities to conduct authentications has been held illegal.
 - iii. corporate bodies including banks, mobile wallets, etc also cannot ask for Aadhaar number.
- **PAN** - Section 139AA of IT Act makes Aadhaar mandatory for filing IT returns and applying for PAN.
- Since it stood the triple test and did not violate the right to privacy, linking of PAN with Aadhaar will be mandatory.
- But there was no deadline mentioned by the court.
- It is also said that if in the regulations, a provision was made that impinged upon the right to privacy, it could be challenged.
- **Linking of bank accounts** - Linking of bank accounts and other financial instruments with Aadhaar were made mandatory by 2017 amendment to Prevention of Money Laundering Act Rules, 2005.
- It does not stand the proportionality test because just for preventing money laundering, there cannot be such a provision targeting every resident as a suspicious person, which is seen as disproportionate.
- Therefore the amendment is declared unconstitutional.
- **Details already given** - The judgment does not clearly state if banks/mobile companies that have already collected Aadhaar data will have to delete the collected information.

AADHAAR IS...	
NOW NOT NEEDED FOR <ul style="list-style-type: none"> ■ Employee pension ■ Admission to school ■ Taking CBSE, NEET, JEE, UGC exams ■ Re-verification of mobile number ■ Bank accounts ■ Mutual fund investments ■ Insurance policies ■ Credit cards ■ New/existing post office schemes ■ New/existing NSC accounts ■ New/existing PPF accounts ■ New/existing Kisan Vikas Patra accounts 	<ul style="list-style-type: none"> ■ Mid-day Meal for children ■ Assistance/scholarship given by Department of Empowerment of Persons with Disabilities ■ Supplementary Nutrition Programme under ICDS Scheme ■ Payment of honorarium to AWWs & AWHs under ICDS Scheme ■ ICDS Training Programme ■ Supplementary Nutrition for children offered at creche centres ■ Honorarium to creche workers and creche helpers ■ Maternity Benefit Programme ■ Scheme for Adolescent Girls ■ National Mission for Empowerment of Women ■ Ujjwala Scheme ■ Swadhar Scheme ■ Integrated Child Protection Scheme ■ STEP programme ■ Rashtriya Mahila Kosh ■ Pradhan Mantri Matru Vanana Yojana ■ Painting, essay contests under IEC component of human resource development and capacity building
STILL NEEDED FOR <ul style="list-style-type: none"> ■ PAN card ■ National Child Labour Project (NCLP) ■ Scholarships for school students, such as National Means-cum-Merit Scholarship Scheme, National Scheme of Incentive to Girls for Secondary Education, Inclusive Education of the Disabled at Secondary Stage 	



- But the court has upheld the validity of all Aadhaar enrolment done prior to the enactment of the Aadhaar Act.
- It has also said that since enrolment was voluntary, those who refuse to give consent would be allowed to exit.
- **Aadhaar for education** - Statutory bodies like CBSE and UGC cannot ask students to produce their Aadhaar cards for examinations like NEET and JEE.
- Aadhaar would also not be compulsory for school admissions as “it is neither a service nor subsidy” but a fundamental right for children between 6 and 14.
- **Aadhaar for children** - The consent of parents/guardians will be essential for the enrolment of children under the Aadhaar Act.
- On attaining the age of majority, such children shall have the option to exit.
- **Section 33(1), Aadhaar Act** - It prohibits disclosure of information (identity and authentication), except when it is by an order of a district judge or higher court.
- The judgment enabled individuals to have a right to challenge such an order by approaching the higher court.
- **Section 33(2), Aadhaar Act** - It provides for disclosure of information in the interest of national security when directed by an officer of Joint Secretary or higher rank.
- The court struck down this provision in the present form.
- **Section 47, Aadhaar Act** - It provides for cognisance of offence only on complaint by UIDAI (or any person authorised by it).
- The court ruled that this needed suitable amendment to provide for filing of complaints also by an individual whose right was violated.
- **Section 57, Aadhaar Act** - It provides for use of Aadhaar number for establishing the identity of an individual for any purpose, by the state or any corporate or person.
- The court has said that the section would impinge upon the right to privacy of the individual and enable commercial exploitation of biometric and demographic information.
- The court thus **read down** (providing narrow interpretation) this provision as susceptible to misuse.
- **Regulation 26(c), Aadhaar Regulations** - It allowed UIDAI to store metadata relating to transactions.
- The court struck down this regulation in its present form.
- **Regulation 27** - It allowed archiving transaction data for 5 years, which is now reduced only upto 6 months.
- **Highlights of the minority judgment** - Justice D Y Chandrachud gave the dissenting minority judgment in which he observed the following.
- **Surveillance** - The architecture of Aadhaar poses a risk of potential surveillance activities through the Aadhaar database.
- From the verification log, it is possible to locate the places of transactions carried out by an individual over the past five years (now made six months).
- **Money Bill** - Passing of a Bill as a Money Bill, when it does not qualify for it, damages the delicate balance of bicameralism.
- Notably, bicameralism is part of the basic structure of the Constitution.
- The ruling party in power may not command a majority in the Rajya Sabha.
- But the legislative role of that legislative body cannot be obviated and passing it as money bill was “a fraud on the Constitution.”
- **Shortfalls** - The biometric authentication failures that have led to denial of rights and legal entitlements were violative of human dignity and impermissible under the constitutional scheme.

3.5 Supreme Court on Criminalisation of Politics

A five-judge Bench of the Supreme Court led by the CJI recently gave its judgement on criminalisation of politics.

Highlights of the Verdict

- **Parties** - The Supreme Court directed political parties to publish online the pending criminal cases of their candidates.
- Rapid criminalisation of politics cannot be arrested by merely disqualifying tainted legislators.
- Cleansing politics from criminal elements begins only with purifying political parties itself.
- **Parliament** - It urged the Parliament to bring a “strong law” to cleanse political parties of leaders facing trial for serious crimes.
- Parliament should frame a law that makes it obligatory for political parties to remove leaders charged with “heinous and grievous” crimes.
- Parties must refuse ticket to offenders in both parliamentary and Assembly polls.
- The Bench made it clear that the court cannot legislate for Parliament by introducing disqualification to ban such candidates from contesting elections.
- **Candidates** - The court directed that candidates should disclose their criminal past to the Election Commission in “block letters.”
- Candidates should make a full disclosure of the criminal cases pending against them to their political parties as well.
- The parties, in turn, should put up the complete details of their candidates on their websites for public view.
- The verdict referred to the views of various other bodies and provisions in current legislations, as follows:
- **N.N. Vohra Committee** - The Court mentioned the 1993 Mumbai bomb blasts.
- The N.N. Vohra Committee, set up after the blasts, studied the problem of criminalisation of politics.
- The report said that the blast was a result of the nexus among criminal gangs, police, politicians and bureaucrats.
- It mentioned how money power was first acquired through real estate.
- It was then used to develop a network of muscle power by building up contacts with bureaucrats and politicians.
- The criminal network was virtually running a parallel government.
- **RPA** - The Representation of the People Act does disqualify a sitting legislator or a candidate on certain grounds.
- However, there are no provisions regulating the appointments to offices within the party.
- A politician may be disqualified from being a legislator, but may continue to hold high positions within the party.
- He/she can thus continue to play an important public role which he/she has been deemed unfit for by the law.
- Convicted politicians may continue to influence law-making by controlling the party and fielding proxy candidates in legislature.

3.6 SC Decision on Rohingyas Deportation

The Supreme Court dismissed an application to restrain the government from taking steps for deportation of Rohingyas to Myanmar for being illegal migrants.

- A case challenging the government’s move to carry out en masse deportation of Rohingya refugees is still pending before the Supreme Court.
- Given this, the deportation of seven Rohingya men was unexpected and contentious.

- **Constitution** - In **NHRC v. State of Arunachal**, the Court extended protection under Article 14 and 21 to refugees.
- Given the circumstances, refugees often cross borders without prior planning or valid documentation.
- If not for anything, this should reinforce their status as “refugees” and not “illegal immigrants”.
- Here, evidently, the Rohingya deported to Myanmar are at the risk of being tortured, indefinitely detained and even killed.
- **International law** - Further, various high courts have upheld the customary international law principle of non-refoulement.
- It is the practice of not forcing refugees or asylum seekers to return to a country in which they are liable to be subjected to persecution.
- In view of these principles, the deportation potentially violates Article 21, and India’s international obligations.
- **Citizens** - The argument that the men are “citizens” and therefore not in need of protection is without legal basis.
- Refugees frequently, though not always, are citizens of the state they are fleeing from.
- Government's claim that the men have been accepted as “citizens” by Myanmar is disputable as the root of the plight of the Rohingya is the denial of citizenship.
- In Myanmar, they are being issued the controversial National Verification Card.
- This does not recognise their religion or ethnicity and definitely does not confer citizenship.
- **Judiciary** - In the **absence of a domestic refugee protection law**, it is for the judiciary to extend minimum constitutional protection to refugees.
- By allowing this deportation, the SC has set a new precedent that is contrary to India’s core constitutional tenets.
- However, it is important to not overstate the implications, as the order was based on the notion that the men had consented to return.
- So in cases where there is no consent, this cannot apply as a precedent.

3.7 National Register of Citizens for Tripura

Demand for NRC for Tripura, on the lines of the NRC in Assam, has been rising in recent times. The Supreme Court recently tagged the Tripura NRC plea with Assam NRC case.

- **Tripura’s Indigenous People** - There are 19 notified STs in Tripura, among whom the Tripuris are the largest group.
- The Tripuris are also considered the aboriginals as they migrated first.
- The princely state of Tripura was ruled by the Manikya dynasty, belonging to the Tripuri community, from the late 13th century until the signing of Instrument of Accession with the Indian government on October 15, 1949.
- Other important groups that are migrated at various times include Reang and Jamatia (via the Chittagong Hill Tracts from parts of Burma), Bhil, Orang and Santhal (from parts of central India and Bengal).
- The 2011 Census puts the number of Tripuris, who belong to the Indo-Mongoloid family, at 5.92 lakh, followed by Reangs (1.88 lakh) and Jamatias (83,000).
- The extent of migration by non-tribal groups led to the decrease in Tripura’s tribal population from 63% in 1881 to 31% in 2011.
- This is mainly due to the migration of 6 lakh Bengalis between 1947 and 1971, from East Pakistan.

Tripura fact file

<ul style="list-style-type: none"> ■ Princely State of Tripura merged with the Indian Union on October 15, 1949 ■ Attained full statehood on January 21, 1972 ■ Fresh communal disturbances in 1950 in East Bengal, West Bengal, Assam and Tripura lead to the Nehru-Liaquat Agreement on April 8, 1950 	<ul style="list-style-type: none"> ■ National Register of Citizens prepared in 1951 ■ Treaty for friendship, co-operation and peace signed between India and Bangladesh on March 19, 1972 ■ The Illegal Migrants (Determination by Tribunals) Act, 1983 and The Illegal Migrants (Determination by Tribunals) Rules, 1984 are struck down by SC
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■ As per the government, the estimated number of illegal Bangladeshi immigrants in India as on 2002 was 1,20,53,950. In Tripura, there were approximately 3,25,400 illegal immigrants

SOURCE: PIL

- After years of struggle, in 1979, the tribal people of the State had gained special autonomy provisions -
 - i. the institution of the Tripura Tribal Areas Autonomous District Council
 - ii. recognition of their spoken language and other assurances
- The Tripura Tribal Autonomous District Council (TTADC), covering 2/3rds (7,332 sq. km) of the state's area, was set up in 1979 and brought under the Sixth Schedule in 1985.
- Since then, the council has been empowered and the tribal rights have been ensured protection and multiple insurgent groups have also ended their violent struggles.
- However, Uncontrolled influx of illegal migrants has caused huge demographic changes in Tripura.
- Indigenous people who were once the majority have now become a minority in their own land.
- Resultantly, Tripura, a predominantly tribal State, has now become a non-tribal State.
- The presence of illegal immigrants violates the political rights of the citizens of Tripura.
- **Petition for NRC** – Tripura People's Front and others have filed a petition in SC to direct the authorities to update the NRC with respect to Tripura.
- The purpose is to detect and deport the "illegal immigrants" from Bangladesh, as is being done in Assam.
- Also, the 1993 tripartite accord signed by the Government of India with the All Tripura Tribal Force was cited.
- It asked for the repatriation of all Bangladeshi nationals who
 - i. had come to Tripura after March 25, 1971 (and)
 - ii. are not in possession of valid documents authorising their presence in the State
- The petitioners went further and demanded the cut-off date to be July 19, 1948, as provided for in Article 6 of the Constitution, dealing with citizenship rights.



MIGRANTS ENTERING TRIPURA: LARGE INFLUX IN 1950s

1947	8,000
1949	1.05 lakh
1951	1.84 lakh
1952	2.33 lakh
1953	80,000
1964	1.30 lakh

Source: Tripura Relief and Rehabilitation Department

National Register of Citizens

- National Register of Citizens (NRC) means the register containing the names of Indian citizens.
- Only once before has an NRC been prepared so far, which is in the State of Assam in 1951.
- After the Census of 1951, NRC was created that contained the details of every person by village in the State of Assam.
- The data included name, age, father's/husband's name, houses or holdings belonging to them, means of livelihood and so on.
- These registers covered every person enumerated during the Census of 1951.
- They were kept in the offices of deputy commissioners and sub-divisional officers and later transferred to Police department in 1960s.
- NRC updation basically means the process of enlisting the names of citizens based on Electoral Rolls upto 1971 and 1951 NRC.
- The NRC will be updated as per the provisions of The Citizenship Act, 1955 and The Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003.
- The state government machinery under the Registrar-General of India is responsible for carrying out the updation.
- Citizenship being a subject on the Union List, the Centre is responsible for the policy decisions, guidelines and funds for the NRC update.

- The court has directed the court registry to tag the petition along with petitions in the Assam NRC case.
- So, it would now be heard by a Special Bench monitoring the Assam NRC case.
- The state had rejected the demand for an NRC but it is open to such an initiative if the NRC exercise in Assam is successful.

3.8 Social Media Communication Hubs

- The Supreme Court recently took a strong note of the social media communication hub proposed by Ministry of Information and Broadcasting.
- It is a hub for monitoring online data and will be setup in each district across the country.
- Using this analytical tool, the Centre wishes to **track social media movements** in every district of the country to predict a global public perception.
- It may also help in tackling fake news and the Centre will gauge people's reactions to their schemes and strategies.
- The SC has observed that it would result in creating a **surveillance state**.

4. CONSTITUTIONAL & NON-CONSTITUTIONAL BODIES

4.1 Central Bureau of Investigation

- CBI was established by the GOI in 1963 by a resolution to investigate serious crimes related to Defence of India, corruption in high places, serious fraud and other serious crimes which have all India and Inter-state ramification.
- It derives power to investigate from the Delhi Special Police Establishment (DPSE) Act.
- It acts as Interpol of India, an interface between the law enforcement agencies of India and other countries to ensure cooperation.
- It has three divisions for investigation of crime – Anti-corruption crime, Economic Offences Division and Special Crimes Division.
- It is headed by the Director, an IPS Officer with a rank of Director General of Police.
- Before the Lokpal act was legislated, the CBI director was appointed by the 1946-DSPE Act.
- Now, the Lokpal Act governs the appointment of the CBI director, but the functioning of the agency is still governed by DPSE Act.
- Following the enactment of the Lokpal Act, the list is prepared by the Ministry on the basis of seniority and experience in anti-corruption investigations.
- This list goes to the Department of Personnel and Training, which vets it further.
- The list then goes to the Lokpal Search Committee, consisting of,
 1. The Prime Minister as its chairperson;
 2. The Leader of Opposition in Lok Sabha/leader of the single largest opposition party in Lok Sabha and
 3. The Chief Justice of India or a judge of the Supreme Court nominated by the CJI. (The latter two as committee members).
- The search committee examines the names and sends its recommendation to the government.
- The decision of the committee could be unanimous or divided with a member recording a note of dissent.
- Section 4B of the DSPE Act, 1946 fixes a **tenure of not less than two years** for a CBI's director.
- According to Section 4B(2), the director shall not be transferred except with the previous consent of the committee that initially recommends the names for the appointment.
- The same procedure was laid down by the SC in the landmark judgment of **Vineet Narain & Others vs Union of India & Anr (1997)**, with legally bindings.



- It also says that only President would have the authority to remove or suspend the Director, on a reference by the CVC of “misbehaviour or incapacity”.
- The superintendence of CBI related to investigation of offences under the Prevention of Corruption Act, 1988 lies with the Central Vigilance Commission (CVC) and in other matters with the Department of Personnel & Training (DOPT).
- As per the DPSE act, CBI can suo-moto take up investigation of offences notified in section 3 of DPSE Act **only in the Union Territories**.
- The jurisdiction of its investigation can be extended by the Central Government provided the State Government accords consent.
- It can take over the investigation of a criminal case registered by the State Police in the following situations,
 1. The concerned State Government makes a request to that effect and the Central Government agrees to it (Central Government generally seeks comment of CBI before deciding upon the request of the State)
 2. The State Government issues notification of consent under section 6 of the DPSE Act and the Central Government issues notification under section 5 of the DPSE Act
 3. The Supreme Court or High Courts orders CBI to take up such investigations.

Withdrawal of General Consent - *Andhra Pradesh and West Bengal have recently withdrawn the “general consent” granted to the CBI.*

- The CBI is governed by the DPSE Act that makes consent of a state government mandatory for conducting investigation in that state.
- There are **two kinds of consent** in the form of case-specific consent and general consent.
- Central government through notification can ask CBI to investigate against central government employees against Income tax violations, conspiracy against nation, spying etc.,
- As law and order belongs to the states, all states normally gave a general consent to CBI for these investigations.
- “General consent” is normally given to help the CBI seamlessly conduct its investigation into cases of corruption **against central government employees in the concerned state**.
- The general consent was routinely given for periods ranging from six months to a year.
- The consent is necessary as the jurisdiction of these agencies is confined to Delhi and Union Territories under the act.
- For example, if CBI wanted to investigate a bribery charge against a Western Railway clerk in Mumbai, it would have to apply for consent with the Maharashtra government before registering a case against him.
- Withdrawal of a consent means that the CBI will not be able to register any fresh case involving a central government official or a private person without getting case-specific consent from the states.
- It simply means that CBI officers will lose all powers of a police officer as soon as they enter the state unless the state government has allowed them.
- It also makes them to seek permission of the state government for every case and every search it conducted on central government employees.
- Thus, it effectively curtails the power of CBI in the State without prior permission.
- The CBI and all agencies under the DPSE Act, 1946, will now have to approach the State government for permission for investigation on a case by case basis.
- However, the CBI would still have the power to investigate old cases registered when general consent existed.
- In fresh cases, The CBI could still file cases in Delhi and continue to probe people inside the two states.
- The Delhi High Court makes it clear recently that the agency can probe anyone in a state that has withdrawn “general consent” if the case is not registered in that state.



4.2 National Commission for Safai Karmacharis

- The National Commission for Safai Karmacharis (NCSK) was constituted in 1994 as a statutory body by “National Commission for Safai Karmacharis Act, 1993”.
- But with the lapse of the act in 2004, the commission is acting as a **Non-Statutory body** of the Ministry of Social Justice and Empowerment.
- Its tenure is extended from time to time through government resolutions.
- The latest resolution in 2016 extended its tenure to 2019.
- With the enactment of “The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013”, the mandate and scope of the commission has also been enlarged.
- The commission will monitor the implementation of the act and **take suo-moto notice** of matter relating to non-implementation of the Act.
- The commission will also advise central and state government for effective implementation.
- Union Cabinet has recently approved the creation of one post each of Vice-Chairperson and Member in the commission to fulfil desired objectives of welfare and development of Safai Karmacharis.

4.3 CARA

- Central Adoption Resource Authority (CARA) is a statutory body of Ministry of Women & Child Development.
- It functions as the nodal body for adoption of Indian children and is mandated to monitor and regulate in-country and inter-country adoptions.
- It works in accordance with the provisions of the Hague Convention on Inter-country Adoption, 1993, ratified by Government of India in 2003.
- The eligibility criteria under Adoption Regulations, 2017, permit single women to adopt a child of any gender, while single men can adopt only boys.
- When a married couple seeks to adopt a child, it needs to give its consent for adoption and should be stable marriage for at least 2 years.
- Earlier this year, CARA has issued a circular disallowing individual in a live-in relationship to adopt children.
- Now, Individuals in a live-in relationship will once again be able to adopt children from and within India.

4.4 National Commission for Women

- National commission for women was set up as a statutory body in 1992 under the National Commission for Women Act, 1990.
- Its mission is to review the Constitutional and legal safeguards for women, recommend remedial legislative measures, facilitate redressal of grievances and advise the Government on all policy matters affecting women.
- It consists of a Chairperson, 5 members and a member-secretary. All the members and Chairperson are nominated by the central government.
- Ministry of Women and Child Development has nominated 3 members to National Commission for Women.
- This is in accordance with the section 3 of the National Commission for Women Act, 1990.
- They shall hold office for a period of 3 years or till the age of 65 years or until further orders from the date of assumption of charge of office, whichever is the earlier.

5. ELECTIONS

5.1 Representation of the People (Amendment) Bill, 2017 - Proxy Voting

Lok Sabha passed the RPA (Amendment) Bill, 2017, to allow NRIs to use proxies to cast votes on their behalf.

- The Representation of the People (Amendment) Bill, 2017 proposes to amend the Registration of Electors Rules, 1960, which stipulates the physical presence of the overseas electors in the respective polling station.
- This is a limitation for overseas electors in exercising their franchise.

- The Bill thus aims at extending the facility of proxy voting to Indian voters living abroad.
- Once passed by both houses, Election Commission will amend the Conduct of Election Rules, 1961.
- This will lay down the procedure by which NRIs could nominate their proxies.
- **Proxy voting** - Voting in an Indian election can be done in three ways - in person, by post or through a proxy.
- Under proxy voting, a registered elector can delegate his/her voting power to a representative.
- This was introduced in 2003 for Lok Sabha and Assemblies elections, but on a limited scale.
- Only a “classified service voter” is allowed to nominate a proxy to cast vote on his/her behalf.
- The definition includes members of the armed forces, BSF, CRPF, CISF, General Engineering Reserve Force and Border Road Organisation.
- A classified service voter can also vote by postal ballot.
- Currently, the classified service voters' proxy has to be a registered voter in the same constituency.
- The proxy is appointed through Form 13F, signed by the voter and the appointed proxy.
- This is done before a first-class magistrate or notary or the commanding officer of the service voter.
- The form has to be submitted to the returning officer of the seat before the nomination of candidates closes.
- The proxy will continue to represent the service voter for all polls until the service or the appointment is revoked.

5.2 EC's Meeting with Political Parties

Election Commission (EC) recently held its meeting with all major political parties aimed at making the electoral process more transparent, inclusive and credible.

- In this context, there were three major demands:
 1. giving up on electronic voting machines (EVMs) and moving back to paper ballots
 2. linking voter identification cards to Aadhaar – due to the concerns about the existence of ghost voters.
 3. cap on election expenditure of political parties
- **EVM** – They were introduced on an experimental basis in 1998 in a few constituencies in state assembly elections.
- Post-2001, EVMs replaced paper ballots for all state elections.
- An important feature of EVMs was that these could register only five votes per minute.
- Voter Verifiable Paper Audit Trail (VVPAT) was later introduced to provide feedback to voters.
- A VVPAT is intended as an independent verification system for voting machines designed to allow voters to verify that their vote was cast correctly.
- It contains the name of the candidate (for whom vote has been cast) and symbol of the party/individual candidate.
- But VVPATs solve only the problems at the voting part and the counting part still remains an opaque operation.
- **Current ceiling** - The EC imposes limits on campaign expenditure incurred by a **candidate, and not political parties**.
- Expenditure by a Lok Sabha candidate is capped between Rs 50 lakh and Rs 70 lakh.
- This is depending on the state he/she is fighting from.
- In Assembly elections, the ceiling is between Rs 20 lakh and Rs 28 lakh.
- This includes money spent by a political party or a supporter towards the candidate's campaign.

- However, it does not cover expenses incurred either by a party or the leader of a party for propagating the party's programme.
- Also, candidates must mandatorily file a true account of election expenses with the EC.
- An incorrect account, or expenditure beyond the ceiling can attract **disqualification for up to three years**.
- This is as per Section 10A of The Representation of the People Act, 1951.
- **EC's view** - The EC has asked the government to amend the Representation of the People Act and amendment to Rule 90 of The Conduct of Elections Rules, 1961.
- This is to introduce a ceiling on campaign expenditure by political parties in the Lok Sabha and Assembly polls.
- EC considers that the limit would ensure a level playing field for all political parties.
- It would also curb the menace of unaccounted money in elections.
- It could significantly control the money power used by political parties and their allies.

5.3 NOTA

Election Commission has withdrawn the provision for the NOTA option for elections to the Rajya Sabha and the State Legislative Council.

- Supreme Court has previously given directive not to extend NOTA to elections in Rajya Sabha.
- None of the above (NOTA) is a ballot option designed to allow the voter to indicate disapproval of all of the candidates in a voting system.
- The idea behind the use of NOTA is to allow the voter to register a "protest" vote if none of the candidates is acceptable to her for whatever reason.
- While NOTA votes are tallied, the candidate with the highest number of votes polled is declared elected irrespective of the NOTA total.
- General elections to the Lok Sabha are conducted with secret ballots and are based on the first-past-the-post principle.
- Unlike this, Rajya Sabha elections uses open ballot system and follow a proportional representation system based on the single transferable vote.
- Open ballot system is when the MLAs have to show their ballot paper to an authorised party agent before putting it in ballot box.

5.4 Re-election on Maximum NOTA Votes - Maharashtra

Maharashtra State Election Commission (MSEC) recently ruled if NOTA gets the maximum votes in an election, re-elections will be held.

- The MSEC supervises elections to panchayats and municipalities in the state.
- For local body polls in Maharashtra, the NOTA will now be treated as a "fictional electoral candidate".
- None of the contesting candidates will be declared as elected and fresh elections would be held, if NOTA gets maximum votes.
- This is perhaps the first time that the option was being introduced anywhere in the country.
- The order will be applicable to polls and bypolls to all municipal corporations, municipal councils and nagar panchayats.
- It comes five years after the Supreme Court ordered the Election Commission to introduce a 'None of the Above' (NOTA) button on all electronic voting machines (EVMs).
- But earlier, irrespective of the NOTA votes, the contesting candidate with the highest number of votes was declared a winner.
- This was the case even if NOTA has polled more votes than the candidate with the highest votes.

- **Other initiatives of MSEC** - The SEC of Maharashtra has brought in some key electoral reforms in the last few years.
- It is the first one to go fully digital in the filing of nomination papers and affidavits of all candidates.
- This has eliminated most errors and enabled instant dissemination of information to the voters.
- It is the first SEC in the country to cancel registration of more than 250 political parties for failure to submit audited accounts in time.
- It is also the first one to disqualify an elected representative for failure to comply with expense disclosure rules.

5.5 Model Code of Conduct (MCC)

- The MCC is a set of guidelines issued by the Election Commission to regulate political parties and candidates prior to elections, to ensure free and fair elections.
- This is in keeping with Article 324 of the Constitution, which gives the Election Commission the power to supervise elections to the Parliament and state legislatures.
- The MCC is operational from the date that the election schedule is announced till the date that results are announced.
- The MCC is not enforceable by law.
- However, certain provisions of the MCC may be enforced through invoking corresponding provisions in other statutes such as the Indian Penal Code, 1860, Code of Criminal Procedure, 1973, and Representation of the People Act, 1951.
- In 2013, the Standing Committee on Personnel, Public Grievances, Law and Justice, recommended making the MCC legally binding and be made a part of the Representation of the People Act, 1951.
- **Prohibitions under MCC** - Neither the caretaker State Government nor the Central Government shall
 1. Announce any new schemes or projects
 2. Use of official resources for any non-official purposes, and
 3. Combining of official visits with electioneering work
- **Recent issue** - Election Commission has recently asserted that MCC will come into effect from the day the premature dissolution of an Assembly in a State or a Union Territory is announced and remain in force till the new government is formed.
- Election Commission has highlighted the judgment of SC in the **SR Bommai versus Union of India case**, 1994 to support its view on MCC in the present case.
- According to the judgment, the caretaker government should merely carry on day-to-day work and desist from taking any major policy decisions.
- The EC's decision assumes importance as the Telangana Assembly was prematurely dissolved recently. Its term was to end in June 2019.

5.6 Section 151A of RPA

- Section 151A of the Representation of the People Act deals with time limit within which casual vacancies in Parliament and State Legislatures should be filled through bye-elections by Election Commission of India (ECI).
- The section mandates ECI to fill the vacancies within 6 months from the date of occurrence of the vacancy **provided that the remainder of the term of a member in relation to a vacancy is one year or more.**
- There is a recent controversy in conducting bye-elections in Karnataka and Andhra Pradesh to fill vacancies in the Lok Sabha.
- The term of 16th Lok Sabha is upto 3rd June, 2019.
- ECI has started the process to fill the vacancies in Karnataka alone.

- This is because the vacancies in the seats of Lok Sabha from Karnataka occurred in the Month of May, 2018.
- Whereas, in A.P, the vacancies occurred in the month of 20th June, 2018.
- Thus, there is no need for conducting bye-election in A.P as the remaining term of the Lok Sabha is less than 1 year from the date of occurrence of vacancies.
- **Exception in Sec 151A** - If ECI in consultation with the Central Government certifies that it is difficult to hold the bye-election within the said period, then the section 151A can be overruled.

5.7 Usage of Preferential voting system

- Preferential voting is a system of voting in which voters indicate their first, second, and lower choices of several candidates for a single office.
- Under this, a voter can choose just one candidate, but also rank candidates in an order of preference.
- If a candidate wins 50% of the mandate plus one vote, he/she is declared the winner.
- But if the candidate falls short of this threshold, the candidates are ranked again based on the second choice of a voter.
- And if this still falls below the threshold, the contest moves on to the third round, and so on.
- This system of voting is used for elections to the House of Representatives in Australia and to elect some mayors in New Zealand, along with some other countries.
- Nobel laureate Amartya Sen had lauded the preferential voting system, as the ordered voting allows for a true majority choice to emerge, both in the form of the candidate chosen as well as the reflection of the views of the majority, unlike the simple first-past-the-post (FPTP) system.

What is the case with India?

- India follows a first-past-the-post (FPTP) system.
- In the FPTP system, the leading candidate can win an election despite winning a minority of the votes.
- The candidate with the highest number of votes, irrespective of the margin of victory or percentage of votes polled, is declared the winner.
- The FPTP has several advantages due to which it is considered to be the simplest electoral system.
- It is an easy system to understand, wherein the choices for the voters are clear and the counting is also simple and straightforward.
- The system also guarantees one representative for each constituency who is accountable to his electorate, which is not necessarily the case in other voting systems.
- Also, candidates get to know their relative support in the constituency, unlike other systems where electors vote for a party, and not for individual candidates.
- In a country such as India, with near one billion voters, the ease of administering voting in this system almost makes it the most viable model to follow.
- However, in states like U.P. and Bihar, parties which secure less than 50% of the vote tend to win substantive majorities.
- The FPTP system rewards parties who target and treat preferentially specific segments of the electorate, or “vote banks,” rather than the majority of electors.
- It thus rewards divisive electoral strategies and encourages parties to field tainted candidates.
- In the past, this was mitigated at the Central level by the need for coalitions.
- Even if the leading party in the election fell short in vote share terms, it had to get the support of regional parties to go past the halfway mark in seat terms.
- This rendered the system a truly representative one.
- However, in the 2014 general elections, the ruling government won the majority of seats despite a vote share of only 38.5% and little accretion of outside support after the election.



- Thus, even if the preferential voting system is more complicated than the FPTP system, it is worth considering as a just alternative in the longer term.

5.8 Appointment of Election Commissioners

The Supreme Court is hearing a PIL on the appointment of Chief Election Commissioner and Election Commissioners.

- Election Commission of India (ECI) is a constitutional three-member body, with one Chief Election Commissioner (CEC) and two Election Commissioners (EC).
- Under Article 324(2) of the Constitution of India, they are appointed by the President of India based on the recommendation of PM and Council of Ministers.
- According to Article 324, the appointment shall be done as per the law made by the Parliament in this regard. However, no such law has yet been made. It leaves the appointment solely to the executives.
- CEC and EC have tenure of six years or hold office till the age of 65 years and receive salary and other allowances similar to the Judge of the Supreme Court of India.
- If the CEC and other ECs differ in opinion on any matter, such matter shall be decided by according to the opinion of the majority.
- Though they are appointed in a similar manner with equal tenure and salary, their removal process varies.
- According to the Article 324 (5), CEC can be removed only by the order of the President, just like a judge of the Supreme Court.
- But the provision is silent about the procedure for the removal of EC and only provides that ECs cannot be removed except on the recommendation of CEC.
- Thus, the CEC is provided with a security of tenure and could only be removed through impeachment, other EC's can be removed on the recommendations of CEC.

6. IPC AND CRPC IN NEWS

6.1 Supreme Court Verdict on Section 377

A Constitution Bench of the Supreme Court has unanimously decriminalised homosexuality.

- Section 377 of Indian Penal Code, Code dating back to 1860, criminalises sexual activities “against the order of nature”.
- It creates a class of criminals, consisting of individuals who engage in consensual sexual activity.
- It typecasts Lesbian, Gay, Bisexual, and Transgender, Queer (LGBTQ) individuals as sex-offenders.
- It categorised their consensual conduct on par with sexual offences like rape and child molestation.
- This has led to stigmatisation, condemnation and even ineffective HIV prevention and treatment among LGBTQ individuals.
- **Judgment** - The Bench unanimously held that criminalisation of private consensual sexual conduct between adults of the same sex was clearly unconstitutional.
- The court, however, held that the Section 377 would apply to “unnatural” sexual acts like bestiality.
- Sexual act without consent would also continue to be a crime under Section 377.

SC's rationale

- **Individual** - Bodily autonomy is individualistic as it is a matter of choice and is part of dignity. Any repression of this by the state will be a violation of free expression.
- **Rights** – Homosexuals have a fundamental right to live with dignity and possess full range of constitutional rights including sexual orientation, partner choice, equal citizenship and equal protection of laws.
- The State cannot decide the boundaries between what is permissible and not.
- **Society** - Section 377 is based on deep-rooted gender stereotypes and a majoritarian impulse to subjugate a sexual minority.

- But the societal morality cannot override constitutional morality and fundamental rights.
- **Nature** - Homosexuality was documented in 1,500 species and was not unique to humans. This firmly dispels the prejudice that homosexuality is "against the order of nature".
- **Right to Love** - Section 377 speaks not just about non-procreative sex but also about forms of intimacy i.e the 'right to love'.
- **Perception** - The recent parliamentary re-enactment of the Mental Healthcare Act, 2017 makes it clear that homosexuality is not considered to be a mental illness.
- It is reaffirmed that mental illness shall not be determined on the basis of non-conformity with moral, social, cultural, religious beliefs.

Earlier stands of SC

- In 2009 Delhi high court gave a historic and globally accepted verdict by decriminalised gay sex, but this order was kept aside by the SC in 2013.
- In December 2013 Supreme Court in **Suresh Kumar vz NAZ foundation** case, dismissed the LGBT community as a negligible part of the population while virtually denying them the right of choice and sexual orientation.
- A Review Bench of the Supreme Court, in January 2014, had also refused to strike down Section 377 IPC.
- In **Puttaswamy Vs Union of India** case in 2017, SC has ruled that right to privacy as a fundamental right.
- It implicitly overruled the 2013 judgment of the Supreme Court that upheld the validity of IPC Section 377.

6.2 Supreme Court Verdict on Adultery

The Supreme Court has removed provisions on adultery in IPC and CrPC, and subsequently decriminalised adultery.

- Under Section 497 of the IPC, a man had the right to initiate criminal proceedings against his wife's lover.
- Under Section 198(2) of the CrPC, the husband alone could complain against adultery.
- The court has now struck down both these provisions and has decriminalised adultery.
- Nevertheless, adultery will continue as a ground of divorce and, therefore, remain in civil law.

Court's rationale in decriminalising

- **Anomalies in law** - An adulterous relationship did not constitute an offence if a married woman had her husband's consent.
- A wife could not prosecute her husband or his lover for violating the "sanctity of the matrimonial home".
- Only a husband could prosecute the man with whom his wife had a sexual relationship.
- Moreover, if the husband had an affair with an unmarried woman, divorcee or widow, it was not an offence of adultery.
- **Rights** - The ability to make choices is a fundamental facet of human liberty and dignity.
- Autonomy in matters of sexuality is intrinsic to a dignified human existence.
- But Section 497 restricts women of the ability to make these fundamental choices.
- It is also violative of **Article 14 (equality)** and **Article 15** as it discriminated on grounds of sex and punishes just men.
- **Attitude** - The "ancient notions" of the man being the seducer and woman being the victim is no longer the case today.
- The court observed that the husband is neither master of his wife, nor does he have legal sovereignty over her.
- The archaic Section 497 of the IPC is thus arbitrary -
 - in punishing only men for adultery

- in treating a woman as her husband's property
- Besides these, the court also took note of global decriminalisation of adultery.

Section 497

- The First Law Commission of 1837, under Lord Macaulay, had not included adultery as a crime in the original IPC. It was only a civil wrong.
- The Second Law Commission in 1860, headed by Sir John Romilly, made adultery a crime but spared women from punishment.
- This was due to the conditions in which they lived - child marriage, age gap between spouses, and polygamy.
- The drafters of the IPC looked at this as being sympathetic to women, and also viewed men as the real perpetrators.
- In 1954, the Supreme Court too treated Section 497 as a special provision made in favour of women.
- This was made valid in exercise of the state's powers under Article 15(3) of the Constitution.
- In 1988, the court upheld Section 497 by saying only an "outsider" is liable and not the woman.
- This exemption is basically a "reverse discrimination in favour of women".

6.3 Section 124a of IPC

Law Commission of India has recently recommended to the Government of India to re-think or even repeal the provision of sedition (Section 124A) from the Indian Penal Code.

- Section 124a, commonly known as Sedition law made words or any visible representation that attempts to bring hatred or contempt or excite –disaffection towards the government punishable by law.
- It applies to assaulting high constitutional functionaries such as the President and the Governor with "an intent to compel or restrain the use of any lawful power".
- The expression 'disaffection' includes disloyalty and all feelings of enmity.
- They shall be charged with cognizable and non-bailable offence and not compoundable.
- The offence shall be punished with imprisonment for life & fine or imprisonment for 3 years & fine or with fine alone.
- It was introduced in the 1870s, originally to deal with increasing Wahabi activities that posed a challenge to the colonial government.
- The section has been misused in recent times to suppress even minor dissent.
- **Cognizable** - If an offence is cognizable, police has the authority to arrest the accused without a warrant and to start an investigation with or without the permission of a court.
- Otherwise police does not have the authority to arrest the accused without a warrant and an investigation cannot be initiated without a court order.
- **Non-bailable offence** – The police cannot release anyone on bail and so the arrested person has to make an application for bail before a magistrate or court.
- If an offence is **Compoundable**, a compromise can be done between the accused and the victim, and a trial can be avoided.
- Otherwise, no compromise is allowed between the accused and the victim except under certain situations, where the High Court or the Supreme Court have the authority for quashing a matter.
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6.4 Assessing Defamation Law

The response to the #MeToo movement in the form of defamation cases calls for a relook at the relevance and validity of the Indian defamation law.

- Under **sections 499 and 500 of the IPC**, a person found guilty can be sent to jail for two years.
- Section 499 defines defamation and 500 defines punishment for defamation.
- Section 500 says that whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.
- It is a colonial relic that was introduced by the British regime to suffocate political criticism.
- Unlike many other countries, defamation in India is **both civil and criminal offence**.
- Under the civil law, the person defamed can move either the high court or trial court.
- The complainant can seek damages in the form of monetary compensation from the accused.
- On the other hand, the Indian Penal Code also gives an opportunity to the defamed individual to move a criminal court.
- It is a bailable, non-cognizable and compoundable offence i.e. no police can register a case and start investigation without the court's permission.
- Since the law is compoundable, a criminal court can drop the charges if the victim and accused enter into a compromise (even without the permission of the court).
- In a civil defamation case, a defendant need to only show that her statement was true in order to escape liability.
- But in a criminal defamation proceeding, an accused must show that her statement was true and in the public interest.
- In 2016, the constitutionality of criminal defamation was challenged in the Supreme Court.
- But it was largely ignored by the court and was held that Sec 499 was constitutional as it protected individual reputation.

INTERNATIONAL RELATIONS

7. INDIA & ITS NEIGHBOURHOOD

7.1 FATF Action Plan for Pakistan

Pakistan has been formally put on the grey list by the Financial Action Task Force (FATF).

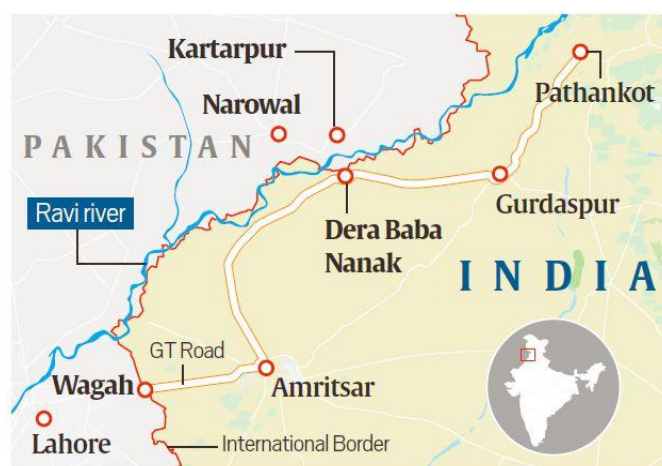
- **Financial Action Task Force** was set up in 1989 by the G7 countries with headquarters in Paris.
- It has 37 members, which include all 5 permanent members of the Security Council and other countries with economic influence.
- Two regional organisations, the Gulf Cooperation Council (GCC) and the European Commission (EC) are also its members.
- Saudi Arabia and Israel are “observer countries” (partial membership).
- India became a full member in 2010.
- **Objective** - FATF acts as an ‘international watchdog’ on issues of money-laundering and financing of terrorism.
- It is empowered to curtail financing of UN-designated terrorist groups.
- It can publicly sensor countries that are not abiding by its norms.
- It is to limit the concerned countries from sourcing financial flows internationally and thereby constraining them economically.

- **Recent decision** - FATF earlier decided to place Pakistan in the grey list for inaction against terror funding.
- It has now unanimously agreed to put into effect the above decision, which comes as a response for Pakistan's inaction against terror funding.
- It has laid out a 10-point action plan for compliance with its guidelines.
- Pakistan has been instructed to take measures and to demonstrate the action on guidelines given.
- UN-designated terrorists and banned terror outfits should be deprived of their resources. Also, their sources of funding are to be choked.
- The designated ones include Hafiz Saeed and Masood Azhar, Taliban and Haqqani Network, Jaish-e-Mohammad, Lashkar-e-Taiba, and their affiliates.
- If Pakistan fails to implement the action plan, it could be included in the black list the next year.
- **Pakistan's response** - After 2012-15, this is the second time it has been grey-listed and is facing sanctions.
- The placement on the 'grey list' could hurt Pakistan's economy as well as its international standing.
- Pakistan had this time round made a high-level political commitment and agreed to work with the global watchdog and the Asia Pacific Group, of which it is a member.

7.2 Indo-Pak Gurdwara Corridor

Pakistan plans to open a corridor to Gurdwara Darbar Sahib at Kartarpur in Pakistan.

- Kartarpur, a place in Pakistan on the banks of Ravi River, is the final resting place of Guru Nanak, the founder of Sikh faith.
- It is where the guru lived the last 18 years of his life and holds a special place for the community.
- The original shrine was built in 1539 after the demise of Sikh guru.
- It is the place where Guru Nanak first started the tradition of Guru da langar (free community kitchen) and congregational worship.
- It is located 4 km from International border between India and Pakistan and it is visible from the Indian side at Dera Baba Nanak.
- Since partition in 1947, access to shrines in Nankana Sahib, Kartarpur and Panja Sahib was restricted in Indian pilgrims.
- Kartarpur sahib was finally reopened to Sikh pilgrims from India as an outcome of former prime minister Atal Bihari Vajpayee's visit to Pakistan in 1999.
- There are no restrictions on visiting Gurdwara Kartarpur Sahib once a pilgrim has entered Pakistan on a valid visa.
- In 2000, Pakistan agrees to allow Sikh pilgrims from India to visit the shrine visa-free (and without a passport) by constructing a bridge from the India side of the border to the shrine.
- Sikh jathas from India travel to Pakistan on four occasions every year for Baisakhi, the martyrdom day of Guru Arjan Dev, the death anniversary of Maharaja Ranjit Singh, and the birthday of Guru Nanak Dev.
- **Gurdwara corridor** – Union Cabinet approved the development of a corridor to enable smooth passage of pilgrims seeking to visit Pakistan's Kartarpur Sahib.
- A bridge will be developed from Dera Baba Nanak village in Gurdaspur, Punjab to Gurdwara Darbar Sahib, Kartarpur.
- The length of the corridor is about 4 km, 2 km on either side of the International Border.
- The "corridor" would bring Pakistan infrastructure right up to the Indian border.



- Pilgrimages between India and Pakistan are governed by the **1974 Protocol on Visits to Religious Shrines**.
- It includes a list of shrines in Pakistan and India open for visitors from the other country, and for which visas are required.
- The Kartarpur Corridor, which will provide visa-free access from India to the shrine inside Pakistan, may need a separate treaty.
- Officials from India and Pakistan will meet soon to discuss the logistics of the corridor and point of border crossing.

Telescope to view Kartarpur Sahib

- The government has decided to install a high-powered telescope along the India-Pakistan border for devotees to view kartarpur sahib in Punjab.
- It is organized to mark the 550th birth anniversary of Guru Nanak Dev, the founder of Sikh faith.
- The telescope would be installed by the Ministry of Electronics and Information Technology.

7.3 India - China Ties: Two plus One Formula

China has proposed new dialogue mechanism involving India “Two Plus One Formula (China & India plus another)”.

- Under the formula, China and India can jointly hold a dialogue with a third country in South Asia.
- It was announced by China during Nepal’s PM visit to China, though the formula is not Nepal Specific.
- This is different from trilateral mechanism and it can be applied to any other country in South Asian region.
- Experts believed that it is the outcome of the previously held **Wuhan informal summit** between Indian PM and Chinese President for achieving greater regional cooperation.
- **Wuhan** is the capital city of Hubei Province in central China.
- It has been a major industrial city for a long time. The 1911 Republican revolution started there.
- An informal summit would normally take place in a place other than Beijing or Shanghai, and Wuhan was a natural choice.
- **Outcomes of Wuhan** – It opened lines of “strategic communications” between Indian and Chinese establishments.
- The arterial flow of information exchange has meant that India and China can be joint custodians rather than rivals in managing their neighbourhood.
- The initiative would be a good indicator on whether India and China can dock their collective rise cordially, through coordinated action internationally



7.4 Status of Rohingyas

India deported seven Rohingya immigrants who had been staying in Assam illegally to Myanmar.

- The Rohingya are an ethnic Muslim group in the majority Buddhist country
- They reside predominantly in Rakhine state and speak a Bengali dialect.

- They are not recognised by the Myanmar government as an official ethnic group and are therefore denied citizenship.
- While it is claimed that there were no Rohingyas in Myanmar before the British brought 'Bengalis' to Burma, there is sufficient evidence to show for the Rohingyas' pre-existence.
- They are often said to be the world's most persecuted minority.
- **Status of Rohingyas in India** - As per Home Ministry data, there are more than 14,000 UNHCR-registered Rohingyas in India.
- There are clusters of Rohingya population in Jammu, Hyderabad, and Delhi-NCR, besides the states of Haryana, UP, and Rajasthan.
- **Measures taken by the government** - India is not a signatory to the 1951 United Nations Convention and 1967 Protocol Relating to the Status of Refugees.
- It also does not currently have a national law on refugees.
- In 2011, the Union government circulated to all states and Union Territories a Standard Operating Procedure to deal with foreign nationals who claimed to be refugees.
- Some cases can be recommended by states or Union Territories to the Union Home Ministry for a long-term visa (LTV) after due security verification.
- These are cases that can be prima facie justified on grounds of well-founded fears of persecution on account of race, religion, sex, nationality, ethnic identity, membership of a particular social group or political opinion.
- LTV-holders are allowed to take up private-sector employment and enrol in any academic institution.
- Also, the Mission Mode Project on Immigration, Visa and Foreigners Registration & Tracking (IVFRT) will facilitate improved tracking of foreigners.
- It will integrate and share information captured at Indian missions during the issuance of visas, during checks at Immigration Check Posts (ICPs), and at Foreigners' Regional Registration Offices (FRROs).
- **Case in Supreme Court**- SC is hearing Centre's order on the identification and deportation of illegal immigrants, which deals with India's obligations under international human rights conventions.
- However, India only follows non-refoulement principle in the recent case, where in it persuaded Myanmar to



Illegal migrants

- An illegal immigrant can be –
 1. A foreign national who enters India on valid travel documents and stays beyond their validity, or
 2. A foreign national who enters without valid travel documents.
- In the view of the Indian government, illegal migrants "infringe on the rights of Indian citizens" and are "more vulnerable for getting recruited by terrorist organisations".
- Section 3(2) (c) of The Foreigners Act, 1946, gives the central government the right to deport a foreign national.
- The power to identify and deport foreign nationals who are in India illegally has been delegated to state governments, Union Territories and the Home Ministry's Bureau of Immigration.
- Illegal immigrants who are intercepted at the border while entering India unauthorised can be sent back then and there.

take illegal migrants back legally and with relevant documents.

- It did not go for the forcible return of refugees to a country where they are liable to be subjected to persecution (refoulement).
- It would also be reassuring to Bangladesh, which worried that India might push illegal rohingya refugees into their borders.

7.5 India-Bangladesh

- **India – Bangladesh Friendship Pipeline Project** This project was recently inaugurated jointly by India and Bangladesh.
- This 130-kilometre pipeline project will connect Siliguri in West Bengal in India and Parbatipur in Dinajpur district of Bangladesh.
- The capacity of the pipeline will be one million metric tonnes per annum.
- This project will fulfil energy needs at a cheaper rate to Bangladesh's northern part.
- **India and Bangladesh** have agreed to institute a Coordinated Patrol (CORPAT) as an annual feature between the two Navies.
- The Navy regularly conducts CORPATs with Indonesia, Myanmar and Thailand. It also conducts EEZ surveillance of Maldives, Mauritius and Seychelles on their request.

8. BILATERAL RELATIONS

8.1 India – U.S Defence Pacts

It was officially announced that the Logistics Exchange Memorandum of Agreement (LEMOA) has been fully operationalised.

- There are four foundational agreements that help the U.S. to intensify its defence cooperation with a partner nation such as India.
- India had signed only three of these four agreements -
 1. General Security of Military Information Agreement (GSOMIA) in 2002
 2. Logistics Exchange Memorandum of Agreement (LEMOA) in 2016
 3. Communications Compatibility and Security Agreement (COMCASA) in 2018
- The last one remaining is the Basic Exchange and Cooperation Agreement for Geo-spatial Cooperation (BECA)
- GSOMIA paved the way for greater technology cooperation in the military sector.
- LEMOA gives both nations access to each other's military facilities. But it does not make it automatic or obligatory.
- COMCASA will facilitate transfer of encrypted communications systems.
- It helps in sharing high-tech military hardware, especially armed drones which the U.S. is willing to supply to India.
- BECA facilitates exchange of geospatial information.
- **Significance of LEMOA** - LEMOA is a tweaked India-specific version of the Logistics Support Agreement (LSA) of the U.S.
 - It gives both countries access to designated military facilities on either side.
 - It can be availed for the purpose of refuelling and replenishment in primarily four areas.
 - These are: port calls, joint exercises, training, and humanitarian assistance and disaster relief.
 - The biggest beneficiary of the LEMOA is the Indian Navy as it interacts and exercises the most with foreign Navies.
 - Also, fuel exchange gets subsumed into the LEMOA and does away with the need for a separate agreement.

- So far, the three services had individual accounts from which payments were being made during military exercises.
- Under the LEMOA, the standard operating procedures (SOPs) are applicable to all three services
- All these improve the interoperability between the militaries and allow transfer of high-end military platforms.
- **Significance of COMCASA** – It is meant to provide a legal framework for the transfer of communication security equipment from the U.S. to India.
- This would facilitate “interoperability” between their forces and potentially with other militaries that use U.S. origin systems for secured data links.
- It would also facilitate transfer of high-end U.S. technology to India, but there is feared that it would compromise on India’s defence secrecy.
- **Benefits** - U.S. granted India the status of “Major Defence Partner” during the Obama’s time, to facilitate transfer of high-end defence technology.
- Signing of the 3 foundational agreements would underline that status, besides making the transfer of American defence technology possible to India.
- However, there is also concern about intrusive access COMCASA would grant the US to Indian Military communication system and Russia-origin and indigenous military platforms may not be compatible with COMCASA.

8.2 India-U.S. 2+2 Dialogue

- 2+2 dialogue (Two plus Two discussion) is a diplomatic arrangement between India and U.S.
- It was held between Indian External Affairs and Defence Ministers, and their US counterparts.
- It aimed at promoting synergy in diplomatic and security efforts and provide a forward looking vision for the India-U.S. strategic partnership.
- It was resolved in the meet to continue the meetings in this format on an annual basis.

Key outcomes

- **Cooperation**–It was decided to establish secure communication (hotlines) between the two Ministers of the countries.
- **Defense**- Strategic importance of India’s designation as US’s Major Defense Partner (MDP) was reaffirmed.
- India recently being offered license exception under the Strategic Trade Authorization (STA-1) was mentioned.
- Significantly, the Communications Compatibility and Security Agreement (COMCASA) was signed.
- The Ministers also announced their readiness to begin negotiations on an Industrial Security Annex (ISA), which would support closer defense industry cooperation and collaboration.
- **Technology** - It was agreed to continue the co-production and co-development of defence projects through the Defense Technology and Trade Initiative (DTTI).
- **Terrorism**– It was decided to implement UN Security Council Resolution 2396 on returning foreign terrorist fighters.
- They also committed to enhance their ongoing cooperation in multilateral fora such as the UN and FATF.
- The countries reaffirmed their support for a UN Comprehensive Convention on International Terrorism.
- Both called on Pakistan to ensure that its territory is not used to launch terrorist attacks on other countries.
- **Indo-Pacific** - The aim was spelt out as advancing a free, open, and inclusive Indo-Pacific region, based on recognition of ASEAN centrality.
- **Afghanistan** - The two sides expressed support for an Afghan-led, Afghan-owned peace and reconciliation process.
- **North-Korea** - India welcomed the recent U.S.-North Korea summit.

- India and U.S. pledged to work together to counter North Korea's weapons of mass destruction programs.
- **Nuke** - The United States welcomed India's accession to the Australia Group, the Wassenaar Arrangement, and the Missile Technology Control Regime.
- It also reiterated its full support for India's immediate accession to the Nuclear Suppliers Group.
- Both sides looked forward to full implementation of
 - i. the civil nuclear energy partnership
 - ii. collaboration between Nuclear Power Corporation of India Limited (NPCIL) and Westinghouse Electric Company for the establishment of six nuclear power plants in India
- **Concerns** - While trade was addressed, India did not receive a clear-cut assurance of its GSP (Generalised System of Preferences) status being restored.
- It neither received any waivers on steel and aluminium tariffs imposed by the U.S.
- The U.S.'s other demand, to "zero out" oil imports from Iran by November, is also contentious.
- No public statement was made on U.S.'s actions on India's investment in the Chabahar port once U.S.'s full sanctions begin in November.
- Also, U.S. officials gave no firm commitment that India would receive a waiver to purchase Russian hardware, beginning with the S-400 missile system.

8.3 India's Exemption from CAATSA

U.S is set to exempt an India, Indonesia and Vietnam defence acquisition from Russia from CAATSA law.

- The Countering America's Adversaries through Sanctions Act (CAATSA), aims at taking punitive measures against Russia, Iran, and North Korea.
- The Act primarily deals with sanctions on the Russian oil and gas industry, defence and security sector, and financial institutions, in the backdrop of its military intervention in Ukraine and its alleged meddling in the 2016 US presidential elections.
- The act was amended by the US Congress, which says that does not have a country-specific provision for exemption from CAATSA.
- The National Defense Authorization ACT (NDDA) 2019 gives president the power to waive of the CAATSA sanctions if it is national security interest
- The grant of such waiver from CAATSA would be assessed on case-by-case basis.
- India have to meet one of two conditions to get exemption,
 - i. India has significantly reduced dependence on Russia,

India's S-400 deal with Russia

- The Russian-built S-400 Triumf, is the most dangerous operationally deployed modern long-range surface-to-air missile (MLR SAM) system in the world.
- It is considered to be much ahead of the Terminal High Altitude Area Defence system (THAAD) developed by the United States.
- The mobile S-400 system can engage all types of aerial targets including aircraft, unmanned aerial vehicles (UAVs), and ballistic and cruise missiles within a range of 400 km, at an altitude up to 30 km.
- It can track 100 airborne targets, including super fighters such as the American built F-35, and engage six of them simultaneously.
- The bulk of India's military equipment is of Soviet/Russian origin including the nuclear submarine INS Chakra, the Kilo-class conventional submarine, the supersonic Brahmos cruise missile, the MiG and Sukhoi fighters, Mi helicopters, and the Vikramaditya aircraft carrier.

- ii. It has significantly increased cooperation with the United States.
- To fulfil this, India is in the process of purchasing arms and equipment worth billions of dollars from the United States in the coming months and years including armed and unarmed drones and fighter jets.
- India's exemption underlines the growing defence and security cooperation that has seen India sign a logistics pact with the US.

8.4 India in US's STA-1 List - Import of Dual-use Tech

The US has granted India exemption under the Strategic Trade Authorisation-1 list.

- In 2009, Obama announced a comprehensive review of the US export control system.
- As part of this came the concept of Strategic Trade Authorisation (STA).
- This is a move towards a licence-free or license exemption regime.
- Accordingly, two lists were created namely STA-1 and STA-2.
- STA-1 and STA-2 established a hierarchy among those the US was willing to certify as "good countries".
- **STA-1** - STA-1 countries are America's most trusted allies.
- The STA-1 list has 36 countries including NATO allies and bilateral treaty allies like Japan, South Korea, and Australia.
- The US considers the non-proliferation controls of these countries the best in the world.
- These are also among those that are part of the four multilateral export control regimes:
 - i. the Nuclear Suppliers' Group (NSG)
 - ii. Missile Technology Control Regime (MTCR)
 - iii. the Australia Group
 - iv. the Wassenaar Arrangement
- STA-1 countries have licence-free access to almost 90% of dual-use technology.
- They are also eligible to import items for reasons of national security, chemical or biological weapons, etc.
- This is irrespective of whether the technology or item impacts regional stability or American national security.
- **STA-2** - Countries in the STA-2 list enjoy some form of licensing exemption.
- But they cannot access dual-use items/technology that may impact regional stability, or contribute to nuclear non-proliferation, etc.
- **Others** - A vast majority of countries remain outside both STA-1 and STA-2.
- They cannot access high technology from the US without specific licences.
- They have to apply for a licence for every item on the Commerce Control List (of dual-use items).
- **Recent Move** - India was in STA-2 list (Strategic Trade Authorisation-2), along with 7 other countries.
- These include Albania, Hong Kong, Israel, Malta, Singapore, South Africa, and Taiwan.
- India has now been elevated to the STA-1 list of countries.

Significance - China, Pakistan, and Russia are on neither list.

- Albania is a NATO member, but is still in STA, and Israel, a major US ally, is not in STA-1.
- Given these, India joining an elite group of allies of the US is a significant move.
- India is now part of STA-1, despite not being member of all four multilateral export control regimes.
- India can now access 90% of defence technology and equipment for dual-use supplied by US government and its defence industry.
- It is expected to lead to greater high-technology trade and commerce.

- For Indian high-tech industry, this could open up doors for both sales and manufacturing in India.
- Third countries can also set up manufacturing units, requiring import of dual-use equipment from the US, without the license process.

8.5 U.S. sanction waiver on Chabahar port

The US government recently announced a waiver to its sanctions on Indian investments in Chabahar port.

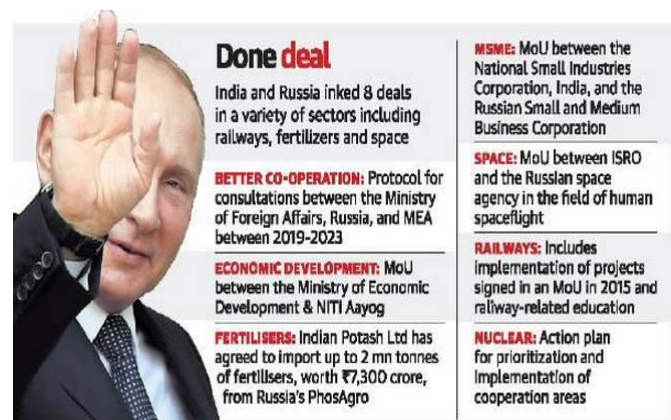
- India signed a trilateral connectivity deal in May 2016 with Iran and Afghanistan that allows it to bypass Pakistan and reach Europe and Central Asia.
- The hub of this connectivity agreement is the Chabahar Port, whose management was given to India for 18 months.
- Chabahar port represents the shortest route for Afghanistan to the sea.
- For Afghan traders, it is shorter than both Iran's Bandar Abbas port and Pakistan's Gwadar port.
- Afghan businessmen will save 50% of their shipping costs when they use Chabahar.
- India's first shipment of wheat in October 2017 through Chabahar port is an initial outcome in this regard.
- Thus, Afghanistan view Chabahar as an opportunity to liberate themselves from the control that Pakistan exercises on their movement and their businesses.
- Nearly 165 out of 500 Afghan companies are registered by the Chabahar Free Zone authority.
- Afghanistan is also planning to launch their own shipping line that will fly their national flag between Indian ports and Chabahar.



8.6 India-Russia Annual Summit

India-Russia annual summit was recently held in India between Indian Prime Minister and Russian President.

- **Defence** - The contract for five S-400 'Triumph' Long Range Surface to Air Missile System was concluded.
- **Trade** - The two leaders addressed a business summit as an attempt to diversify ties and increase bilateral trade.
- Currently at below \$10 billion, the two countries have set a target of \$30 billion bilateral trade by 2025.
- **Others** - Apart from S-400, the two sides concluded eight other agreements as part of the summit.
- A space cooperation arrangement to put an Indian in space, and an action plan for a new nuclear plant were signed.
- Other agreements on railways and agriculture were also finalised.



8.7 Indo-Japan relations

India and Japan held 13th India-Japan annual summit recently.

- They have signed five pacts covering defence exchanges, cooperation in clean energy, roads and highways, healthcare and women while vowing to take their relationship to newer level.

- Both sides reviewed the progress of several initiatives such as enhancing connectivity and ecological management in India's north-eastern region through the India-Japan Act East Forum.
- They also reviewed the progress made on the **Mumbai-Ahmedabad high-speed railway project**.
- Japan promised 3.5 trillion Yen (USD 35 billion or 2,10,000 crore) to India through public and private funding over the five years for various works, including building of smart cities and **clean-up of the Ganga river**.
- A pact was signed under which **Varanasi** would be developed on the pattern of **Kyoto 'smart city'** with the help of Japan.
- Japan also announced that as an example of Indo-Japan Cooperation, Tokyo will help India in providing financial, technical and operational support to introduce Bullet trains.
- Japan lifted ban on six Indian entities including Hindustan Aeronautics Limited (HAL) which had been imposed in the aftermath of 1998 nuclear tests.
- They also decided to speed up negotiations on civil nuclear deal that could not be concluded now.

Outcome in the economic sphere - The first big development was the signing of a \$75 billion currency-swap agreement, one of the largest swap arrangements in the world.

- A **currency-swap agreement** allows India to avail itself of \$75 billion from Japan in exchange for rupees in case the need arises.
- This arrangement makes eminent sense since the rupee has lost around 13% of its value against the dollar this year.
- To be sure, this is not the first time India has had such an agreement with Japan. In 2008 and 2013, Indian signed up for similar swaps valued at \$3 billion and \$50 billion, respectively.
- The bilateral trade between the two countries has been far below expectations despite the two countries having a comprehensive economic partnership agreement (CEPA).
- The swap arrangement means the bilateral trade will likely get a boost, especially as it reduces its dependence on the dollar.

Outcomes in the security sphere - Both countries reaffirmed their desire to further deepen bilateral security and defence cooperation and institute Foreign and Defence Ministerial Dialogue (2+2).

- At present, India has this arrangement only with the US. This enhances the strategic dimension of the relationship between India and Japan.
- There was encouragement for technological collaboration between the respective agencies of the two countries in the **Joint Lunar Polar Exploration Mission**.

Currency Swap Agreement

- Under this arrangement, India can acquire dollars from Japan in exchange for rupees.
- So, India can acquire yen or dollars from Japan upto \$75 billion in exchange for rupees under a fixed exchange rate.
- This exchange has to be reversed after an agreed period. Conversely, Japan can also seek dollars from India in exchange for yen.
- This facility will serve as a line of defence for our country's foreign exchange reserve.
- Advantages** – Short –term liquidity mismatches can be met quickly.
- It will help stabilize the rupee, which has witnessed the steepest fall in recent years.
- It improves market sentiment, curbs speculative pressure on the rupee.
- Foreign Investors will draw comfort from the arrangement.

Twin City Agreement

- Union Territory Delhi government and South Korea has signed a twin city agreement between Seoul and Delhi.
- It is for collaboration on waste management and reviving natural water sources in the National Capital.

Trade Remedy Cooperation

- MoU will promote cooperation between the two countries in the area of trade remedies such as anti-dumping, subsidy and countervailing and safeguard measures.

8.8 Concerns with Indo-S.Korea CEPA

South Korea is speeding up negotiations on expanding the existing Comprehensive Economic Partnership Agreement (CEPA) with India.

- The Comprehensive Economic Partnership Agreement (CEPA) is a free trade agreement between India and South Korea.
- It is equivalent to a free trade agreement, and will provide better access for the Indian service industry in South Korea.
- Services include Information technology, engineering, finance, and the legal field.
- The agreement has ease restrictions on foreign direct investments. Companies can own up to 65% of a company in the other country.
- Both countries avoided issues over agriculture, fisheries, and mining and choose not to decrease tariffs in those areas.
- Recently India speedily cut down duties on 11 items and South Korea on 17 items, as a diplomatic necessity.
- South Korea claimed that it wants increased market access in a number of items including sensitive ones like automobiles and textile that got excluded in the original CEPA.

8.9 India - Seychelles Bilateral Meet

Seychelles President Danny Faure recently visited India for a bilateral meet. The major outcomes are as follows.

- **Assumption Island** - It is one of the 115 islands constituting Seychelles archipelago.
- India signed a pact to develop Assumption Island, during PM Modi's visit to Seychelles in 2015.
- The Island is leased to India for the operation of a naval base and air strip by the Indian navy.
- The deal was to include 30-year access to the base.
- It includes permission to station Indian military personnel on the ground.
- It is being financed entirely by India.
- But Seychelles retains full ownership of the facilities and sovereign rights over the island.
- Seychelles would "suspend" the use of military facilities in case if India is at war.
- This is because it is not a military base.
- The National Assembly of Seychelles recently refused to ratify the naval base.
- Given the absence of parliamentary ratification, the future of the project remains uncertain.
- But both countries now agreed to ensure mutually beneficial steps in this regard.
- **Security** -India has recently gifted a **Dornier maritime patrol aircraft** to Seychelles.
- It will enhance the surveillance capabilities of the island nation.
- The aircraft was built by Hindustan Aeronautics Limited (HAL).
- It can be used for multiple purposes like EEZ monitoring, maritime surveillance, pollution monitoring and control, search and rescue and commuter services.
- It is equipped with a 360 degree surveillance radar, satellite communication, traffic collision and avoidance system, enhanced ground proximity warning system and other sensor as requested by the operator.
- India has also announced a **\$100 million line of credit** under which Seychelles can purchase military hardware from India.
- **Others** - Both sides would intensify cooperation on hydrographical studies of the maritime region.



- They have declared exchange of necessary oceanic maps. In all, both sides sealed six agreements.
- One of the agreements will **twin Panjim in Goa with Victoria of Seychelles**.

8.10 Rafale Deal Controversy.

There are many doubts that have raised with the modified rafale deal and it needs to be addressed.

- The governments of India and France had entered into an MoU in 2012 under which India would buy 126 Rafale twin-engine multi-role fighter aircraft.
- The price per aircraft discovered through an international bid opened on December 12, 2012, was Rs 526.10 crore.
- The manufacturer Dassault would supply 18 aircraft in 'fly away' condition.
- The remaining 108 aircraft would be manufactured in India at the Hindustan Aeronautics Limited's facilities in Bengaluru using Dassault technology that would be available to HAL under a Transfer of Technology agreement.
- That signed MoU was cancelled and the Prime Minister announced the new 'deal' on 2015.
- Under the modified deal, the number of aircrafts to be purchased was reduced to 36 from 126 aircrafts as per the previous agreement.
- All the 36 aircrafts were accepted to bought under "flyaway" condition that left out the possibility of "Make in India" component.

Concerns

- The decision taken to cancel the earlier MoU and enter into a new agreement was not made public by the government.
- **Quantity** - Under the new agreement, India will buy 36 aircraft at an undisclosed price.
- The Indian Air Force has 31 squadrons now and said it needed 42 squadrons of fighter jets.
- But the government decide to buy only 2 squadrons (36 aircrafts) when the need was for 7 squadrons (126 aircrafts).
- **Price** - The government is purchasing the same aircraft from the same manufacturer under "the same configuration".
- But the price per aircraft under the new agreement is Rs 1,670 crore as disclosed by Dassault which is a three-fold increase in quoted price from the previous agreement.
- But the government claims that the price of the aircraft under the new agreement is "cheaper" by 9%.
- Still, the government is buying only 36 aircraft and not all the 126 aircraft offered by Dassault.
- **Purchase** - The new agreement was presented as an "emergency purchase".
- But the schedule of delivery of the first aircraft is stated as September 2019 (four years after the agreement) and the last only in 2022.
- This raised concerns on how the deal qualified to be an "emergency purchase".
- **Transfer of technology** - HAL has experience of 77 years and has manufactured a variety of aircraft under licence from the respective manufacturer.
- When entering into the new agreement, there was no mention of Transfer of Technology from Dassault to HAL.
- The absence of transfer of technology (ToT) component creates void on the role guaranteed for any Indian public sector company, including HAL.
- **Offset supplies** - Every defence purchase by India imposes an 'offset' obligation upon the vendor.
- Dassault has admitted that it would have an offset obligation to the tune of Rs 30,000 crore against the sale of 36 aircraft.

- HAL is a public sector undertaking and it had entered into a 'work share' agreement with Dassault on 2014, which was also qualified to be the offset partner.
- But France has disclosed that the Government of India had suggested the name of a private sector company as the offset partner and France and Dassault had "no choice" in the matter.
- Recently, Defence Minister of France laid the foundation stone for the factory of the private sector company at Mihan, near Nagpur, where the offset supplies would be manufactured.
- Dassault and the private sector offset partner had also disclosed in a press release that their joint venture "will be a key player in the execution of offset obligations".
- However, Government of India has denied that it had suggested the name of a private partner.
- There were also recent reports of disparaging remarks made against HAL by the government which raised the doubts regarding their intention to privatising or shutting down operations of HAL.
- All these concerns warrant the need for government to order an enquiry into the matter and make details of the deal public.

8.11 Air Services Agreement

- Air services agreements are signed bilaterally to improve seamless air connectivity between two sovereign nations.
- Union cabinet has recently approved the revised air services agreement between India and Morocco.
- Under the agreement, both countries designate one of more airlines.
- These designated airlines of either country
 - i. Have the right to establish offices in the territory of the other country for the promotion and sale of air services.
 - ii. Can enter into cooperative marketing arrangements with the designated carriers of same party, other party and third country.
 - iii. Can operate any number of services to/from the six points specified in the Route Schedule to the agreement.
- These developments will enable the people of each country to travel to the other country leading to better economic and cultural ties.



8.12 India and Indonesia Cooperation

- Indonesia has recently agreed to give India access to its port for operational turnaround for Indian Navy.
- In a first, Indian ship **INS Sumitra** berthed at Sabang Port close to the Malacca Strait for operational turnaround.
- INS Sumitra sailed from Port Blair to Sabang, where it will take provisions and fuel before going for further deployment in the Indian Ocean.
- It will increase the Indian Navy's footprint in the region.
- Sabang port is in Sumatra island of Indonesia.

8.13 India – Singapore

- India and Singapore have recently signed the Second Protocol amending the Comprehensive Economic Cooperation Agreement (CECA).
- The CECA was the first comprehensive agreement covering trade in goods, services and investments, which India had signed with any of its trading partners.

- CECA involve tariff reduction/elimination in a phased manner on listed or all items except the negative list and tariff rate quota (TRQ) items.
- Singapore is the second largest trading partner of India within ASEAN and India is the largest trading partner of Singapore in South Asia.

8.14 e-VidyaBharati

- India has recently launched digital bridge called e-VidyaBharati& e-ArogyaBharati Network between India and Africa.
- The network covers 48 african countries and operates based on satellite technology.
- It aims at providing quality tele-education and tele-medicine facility by linking select Indian Universities, Institutions and Super Specialty Hospitals to African educational institutions and hospitals.

8.15 Exercise Malabar 2018

- Indian Naval Ships Sahyadri, Shakti and Kamorta of the Eastern Fleet currently on an overseas deployment to South East Asia and the Western Pacific to participate in the 22nd edition of Exercise Malabar, off Guam, USA.
- Exercise Malabar started as a bilateral exercise between the US Navy and the Indian Navy in 1992.
- It has evolved over the years with the participation of the Japanese Maritime Self-Defense Force (JMSDF) from 2007.
- It is for the first time that the exercise is being conducted off Guam, a major US Naval Base in the Western Pacific.
- US has recently named their Hawaii-based Pacific Command as the U.S. Indo-Pacific Command.
- Malabar 17 was held in July last year on the Eastern Sea Board of India, off Chennai and Visakhapatnam.

8.16 Operation NISTAR

- The Indians who were stranded in Socotra island after cyclone Mekunu hit the area were evacuated by INS Sunayna in an operation "Nistar".
- The cyclone Mekunu had badly hit various parts of Oman and the Socotra Island.
- Socotra also called Soqotra is located between the Guardafui Channel and the Arabian Sea.
- It is the largest of four islands of the Socotra archipelago.
- The territory is located near major shipping routes and is officially part of Yemen, and had long been a subdivision of the Aden Governorate.

8.17 Delhi Dialogue

- India hosted the 10th edition of the Delhi Dialogue (DD X) under the theme "Strengthening India-ASEAN Maritime Cooperation" in New Delhi.
- Delhi Dialogue is a premier annual event to discuss politico-security, the economic and socio-cultural engagement between India and ASEAN.
- It was the first major event to be organised after the ASEAN-India Commemorative Summit.
- It was organised in partnership with the Research and Information System for Developing Countries (RIS).
- India-ASEAN Commemorative Summit was held earlier this year, marking 25 years of India-ASEAN ties.
- The Delhi Declaration was released after the summit.

8.18 Horizon 2020

- It is a joint project by Indian government and European Union to develop a next generation influenza vaccine to protect citizens worldwide.
- It aims to develop cost-effective and affordable influenza vaccine rapidly without compromising quality.

- It is expected to contribute to the achievement of Sustainable Development Goal 3 to ensure health and well-being for all and boost the Indian National Health Mission
- The project requires minimum 3 applicants from European countries associated to Horizon 2020 and minimum 3 applicants from India.
- It is also open to applicants from other countries.

8.19 Extradition Treaty

- Union Cabinet has recently approved extradition treaty between India and Malawi.
- The Treaty would provide a legal framework for seeking extradition of terrorists, economic offenders and other criminals from and to Malawi.
- An extradition treaty is a mutually agreed text signed and ratified by two Governments.
- The arrangement is made in the absence of an extradition treaty on the assurance of reciprocity including under an international convention.
- In the arrangement, two countries consider any international convention as the legal basis for extradition in respect of any offence to which the convention applies.
- It does not cover all offences.
- For e.g India has signed extradition arrangement with Italy.
- India and Italy are both States Parties to the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.
- This Convention has been notified under the Extradition Act by the Government of India.
- Thus, the legal basis for extradition will be based on this convention

9. INTERNATIONAL ISSUES

9.1 U.S.-Russia: Helsinki Summit

- U.S. President Trump recently met with his Russian counterpart Vladimir Putin at Helsinki in Finland for a bilateral discussion.
- The resolving the civil war in Syria, and the saving the “Iranian nuclear deal”, are important areas that require Russia-US cooperation.
- **Arms Race** - Cold war triggered the massive expansion of the nuclear and other arsenal of both the US and USSR (Russia), which was a scary trend.
- In this context, “Strategic Arms Reduction Treaty” (START) was signed as a mutually declared disarmament treaty between the U.S. and Russia in 1991.
- This was subsequently renewed as “New START” in 2010 to further the cause and this renewed deal is set to expire by 2021.
- While Russia has displayed willingness to renew it, high-level talks between the U.S. and Russia are needed to seal the agreement.
- **Ukraine Crisis** - Ukraine was one of the republics within the USSR during the cold war days, and has remained a strong ally of Russia ever since till 2013.
- While it was planning to sign an association agreement with the European Union in 2013, Russia sternly objected to it, leading to tensions.



- Russia subsequently annexed “Crimea” (Russian speaking province in Ukraine) by force and declared its sovereignty over it with people’s support.
- Currently, the issue remains unresolved and the various approaches adopted by the international community have come a cropper.

9.2 United States-Mexico-Canada Agreement

The U.S., Canada and Mexico arrived at a revised trade agreement, replacing the North American Free Trade Agreement (NAFTA).

- The new deal will be known as the United States-Mexico-Canada Agreement, or USMCA.
- The USMCA makes changes to the earlier NAFTA that had some concerns.
- It will thus replace the quarter-century-old North American Free Trade Agreement (NAFTA).
- USMCA does not do anything new to promote the cause of free trade among the North American nations.
- But it achieves the objective of avoiding any significant damage to the international trade system.

NAFTA

- NAFTA came into effect in 1994.
- It is a successor to the Canada-United States Free Trade Agreement.
- NAFTA is a trilateral arrangement that includes Mexico.
- It led to lower tariffs on most goods and services traded among the countries.
- It encouraged big business to reorganise supply chains around the North American continent.
- Overall, regional trade has expanded more than three times since NAFTA came into effect.
- The agreement has also led to a range of rules on food safety, intellectual property rights and the settlement of disputes.
- It has generally deepened the political relationship among the three signatories.

9.3 Free and Open Indo-Pacific strategy

US administration is pushing the Free and Open Indo-Pacific (FOIP) strategy as its major economic initiative.

- Potential Members - From the US perspective, members would include its military partners in the Asia-Pacific region, such as Japan and Australia, as well as a major strategic partner like India, whom the US recognises as a defence partner.
- India’s inclusion in the US FOIP is inevitable, given the US’ visualising of Indo-Pacific as a geography engulfing the Indian Ocean.
- Japan, Australia and India are clearly the three most important strategic allies of the US in Asia.
- Many observers consider it as an initiative for gathering an anti-China alliance.
- The impression of the FOIP being a US-led anti-China alliance was strengthened by the existing security groupings like the Quad involving US, Japan, Australia and India.

9.4 Migrant Caravan

A trail of migrants has been moving northwards from Honduras and Guatemala, towards Mexico and the U.S., in the recent days.

Is this the first time?

- Migration of Central Americans to Mexico and the US has taken place for decades.
- They are mostly economic migrants seeking escape from poverty in places like Honduras.
- Otherwise, they are people fleeing persecution, trafficking or gang violence in the region.
- In previous such caravans (a group travelling together), members numbered in the hundreds and dissipated along the way or upon reaching the border.
- However, a migrant caravan of such a scale and organised nature, as the current one, is relatively new.



- It originally numbered fewer than 200 people, grew to 1,000 by the time it had crossed into Guatemala.
- It is now estimated to have reached more than 7,000 migrants.
- The caravan was formed in San Pedro Sula in Honduras, known for high levels of violence.
- It has also gathered momentum from media attention and support from advocacy groups.
- But so far, no group has claimed responsibility for organising it.
- **Response** - The recent “migrant caravan” had led to warnings from Trump. He had alerted border authorities about a “national emergency”.
- It was also said that the US would begin curtailing aid to Honduras, Guatemala and El Salvador.
- Guatemalan President Jimmy Morales had dismissed Trump’s threats, and rejected constraints placed on foreign aid.
- The Mexican government deployed about 700 National Police officers to the border and issued warnings to the caravan’s participants.

9.5 U.S. Proposal on Birthright citizenship

U.S. President said recently that he intends to issue an executive order that would end birth right citizenship for children born in the US to undocumented immigrants.

- Birthright citizenship in the United States is acquired by virtue of the circumstances of birth.
- It contrasts with citizenship acquired in other ways, for example by naturalization.
- The U.S. citizenship is automatically granted to any person born within and subject to the jurisdiction of the United States.
- This includes the territories of Puerto Rico, the Marianas (Guam and the Northern Mariana Islands), and the U.S. Virgin Islands.
- Birthright citizenship also applies to children born elsewhere in the world to U.S. citizens (with certain exceptions).
- **Basis of the recent decision** - The U.S. proposed to strike down the right to citizenship decided only by the place of birth, derived from common law.
- The principle guarantees that a child born on US soil is automatically a full citizen, irrespective of the citizenship status of its parents.
- The decision seems to be determined to follow the trail blazed by India.
- In 2004, India abolished a similar provision in response to fears about mass immigration from Bangladesh.
- India is the only big country to take this step while the rest of the world supports birthright citizenship, though it may be conditional.
- With the exception of Chile and a few minor states, the Americas support unconditional birthright citizenship.
- The decision was taken at the backdrop of the assertion that birthright citizenship draws people to illegally enter the United States.
- However, all persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside.
- It has long held that the phrase “under the jurisdiction thereof” extends citizenship to anyone born under U.S. territorial jurisdiction, including the children of immigrants.
- But some have recently claimed that undocumented immigrants are under the jurisdiction of foreign countries, rather than the United States, precluding their children from birthright U.S. citizenship.
- Recognising this, the U.S. President took a stand to end birthright citizenship to the children of undocumented migrants.
- However, such a move would significantly restructure U.S. immigration and constitutional law.

- **Constitutionality** - The U.S. Constitution grants the power to regulate citizenship to Congress, not the president.
- Also, it grants only Congress the authority to establish rules for citizenship by naturalization.
- It grants birthright citizenship to all persons born on U.S. soil, meaning that any change would probably require a constitutional amendment.
- Also, the recent proposal seems an unprecedented grab for executive power by the president.
- It probably violates the intent of the framers of the constitution.
- There was a similar ruling in 1867 which stated that black Americans in U.S. could not hold birthright citizenship, effectively making citizenship a hereditary racial matter.
- However, the decision was overruled and the citizenship was granted to anyone born under U.S. jurisdiction.
- By linking citizenship status to parentage rather than birthplace now, the proposed executive order relies on similar legal reasoning.
- Also, any immigrant fell under the protection of the laws and police and courts of the United States was subject to the jurisdiction of the United States.
- Therefore, children of these immigrants were entitled to birthright citizenship, as are the children of undocumented immigrants born on U.S. soil today.

9.6 Impact of US mid-term Elections

The Democratic Party has got majority in the House of Representatives, while the Republican Party increased its majority in the Senate during the recently held mid-term elections in U.S.

- The polarisation between older, white males who are the supporters of Mr. Trump and the younger, multi-ethnic coalition backing Hillary Clinton would now be reflected in the American politics.
- The new Democratic representatives are diverse and the House will be the first to have over 100 women.
- Since the Republicans have strengthened their lead in the Senate, it would be more control over the foreign relations and domestic institutional oversight.

How this result will affect foreign relations?

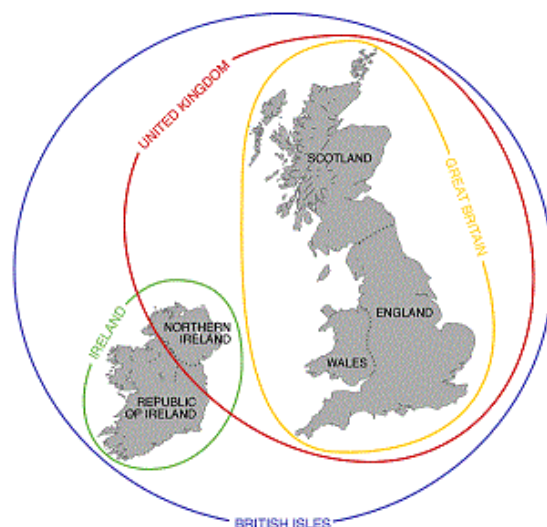
- The White House and Senate have always been more impactful with respect to the foreign affairs.
- And from the decisions taken in the past, Presidents who have lost mid-term elections have instead pursued their chosen policies with even greater determination.
- Yet there would be a new cautiousness in the inward focused US actions as certain areas like Trade will have to face a vote in the Democratic House.
- There is uncertainty whether the Democratic majority will unite around the anti-Beijing moves which has been one characteristic of Mr Trump's trade negotiators.
- But there is now a check, even if a relatively small one against Mr. Trump's attempts to rewrite the post-War world order.
- And the American capital focused on partisan wrangling will less likely devote energy to the rest of the world.

9.7 Draft EU-UK Brexit deal

The European Union and the United Kingdom have reached on a draft divorce agreement on Britain's exit from the EU.

- **Brexit** - In 2016, Brexit was announced in Britain after the referendum for exiting the European Union.
- This decision was taken due to various reasons such as -
 1. Limited space for Britain to negotiate trade agreements with non-EU nations.
 2. The trade deals with EU are more than the terms that can be made by UK with other countries.

- After the referendum, the UK and EU provisionally agreed to settle financial, strategic and political issues over a transition period of 21 months.
- The latest draft contains the following provisions.
- **Transition period** - Britain will formally exit the EU on Friday, March 29, 2019, at which point it will cease to be involved at any level in EU decision-making.
- However, the UK will stay inside the bloc's single market and remain subject to EU laws and regulations until the end of December 2020 while the two sides attempt to iron out a new trade relationship.
- During this period, all existing EU "regulatory, budgetary, supervisory, judiciary and enforcement instruments and structures" will continue to apply within the UK, including rulings made in the Court of Justice of the EU.
- In effect, the transition period provides the two parties with additional time in which to continue negotiations.
- The transition period can be extended, by joint agreement before July 1, 2020, for an unspecified period of time if the negotiations need to be continued.
- **Irish border** – Ireland is an island to the west of Britain and has two major regions (north and south) with distinct demographic features.
- “Protestant majority Northern Ireland” (a U.K. territory) and “Catholic majority Irish Republic” (an independent country in the south), have had serious ethnic tensions within and between them.
- Since Irish Republic is an EU member, a porous border with it would mean a porous border with EU, which is not wanted by the pro-leave group in U.K.
- Thus it is agreed that there will be no hard border between Northern Ireland and the Irish Republic, at least in the short term.
- **Customs union** - If the transition period extends beyond 2020, the draft deal commits both parties to a single customs territory between the EU and the United Kingdom.
- The customs union would remove all tariffs, checks on rules of origin and quotas, and would cover all goods except fishery products.
- While part of the customs union, the UK will be bound by all EU international trade agreements.
- This would mean that countries outside the EU, such as the United States and China, would have access to the UK market under conditions set out in the EU's trade agreements.
- This provision can only be removed through the agreement of both parties, essentially preventing the UK from exiting the customs union without the approval of the EU.
- **Financial markets** - Under the draft agreement, entities established in the United Kingdom shall be treated as entities located outside the Union by the EU after the deal.
- This will give London's vast financial centre only a basic level of access to the bloc's markets after Brexit.
- Currently, inside the EU, banks and insurers in Britain enjoy unfettered access to customers across the bloc in all financial activities.
- After Brexit, Britain would get only a similar level of access to the EU as major U.S. and Japanese firms, while tying it to many EU finance rules for years to come.
- This can potentially jeopardize London's attractiveness to international financial companies.
- **Freedom of movement** - The draft document provides protections for the more than three million EU citizens in the UK, and over one million UK nationals in EU countries to continue to live, work or study as they currently do.



- Crucially, no exit visa, entry visa or equivalent formality shall be required of holders of a valid document issued for EU and UK nationals when crossing national borders within the bloc.
- **UK divorce bill** - The UK will honor all existing joint commitments to EU programs as outlined in the EU budget until 2020.
- Under this, Britain agrees to cover contributions to staff pensions and commitments to EU programs the U.K. made while a member for the funding period that runs to 2020.
- **Recent Developments** - The ruling government in Britain is struggling to retain support for the recently proposed Brexit deal in the parliament.
- The ruling government is facing a possible vote of no confidence over the modalities of the deal and its future relationship with the EU.
- The heart of this bitter dispute is the withdrawal deal with the other 27 nations in the bloc, which would leave the country largely bound to current regulations, with diminished influence over policy formulation.
- With just months left for the U.K.'s withdrawal from the European Union, there is little clarity on the terms of its exit or indeed whether the verdict of the 2016 referendum can be honoured at all.
- The ruling government's failure to win parliamentary backing for the exit deal would raise the risk of a no-deal Brexit, with potentially chaotic ramifications.
- If there is no deal being made, Britain would be crashed out of the EU on World Trade Organisation terms.
- Most rational observers agree that this situation would be disastrous for the country.

9.8 Colombian Peace in Jitters

- Colombian peace was negotiated by outgoing president "Juan Manuel Santos" and FARC leadership (communist rebels), which ended the 50 year civil war.
- But the election of rightist Iván Duque as Colombia's next President has raised concerns on the sustainability of the deal.
- The current election was the 1st since peace was negotiated with the FARC Marxist guerrillas in 2016.
- The poll saw 'Iván Duque' (a political novice) beat 'Gustavo Petro' (an erstwhile insurgent), by a whopping 12% margin.
- Mr. Duque's victory will consolidate the conservatives further in the Congress, where the centrists led by current president 'Santos' are already weakened.
- Duque's economic agenda is also clearly rightist - he proposes to cut corporate taxes and promote a better investment climate in the oil sector.
- Duque's team and his backers are openly cynical of the peace deal and already decry the amnesty given to the rebels.
- While the peace accord provided for FARC to contest elections, violent attacks on FARC candidates forced them to withdraw from the presidential race.
- Subsequently, FARC also suspended its campaign for the congress, an action that is seen as a precursor to the total collapse of the deal.
- It is also saddening that the judicial and other institutional mechanisms to advance the objectives of the deal are still not in place.
- A return to the brutal and protracted civil war is to nobody's favour, and hence policy makers need to show more rationality for sustained reconciliation.



9.9 Israel's "Nation State Law"

Israel's right-wing government has piloted a "Nation State" law, which is perceived as a clear attempt to legitimise the prevalent apartheid against Arabs and also undermine any peace process with Palestine.

- The law lays down that "Israel is the historic homeland of the Jewish people and they have an exclusive right to national self-determination in it".
 - While there are 1.8 million Arabs within Israel (20% of the population), the law seeks to strip Arabic off the national language status it currently enjoys.
 - It has declared Jerusalem, "whole and united" as its capital, which is implicitly antithetic to any rational solution to the Israel-Palestine conflict.
 - It also vows to "promote and encourage" the establishment and consolidation of Jewish settlements on occupied Palestine land (in the West Bank).
 - Further, in what is rather symbolic, this law is set to become one of Israel's powerful "Basic Laws" that will have constitutional status.
 - By providing exclusive right to national self-determination only to the Jewish people and by downgrading Arabic's status, it seems to want to undo the concept of equality that the independence declaration of Israel promised to all its inhabitants.
-
- **Implications** - Palestinians see eastern Jerusalem as the future capital of their nation, but the current law asserts Israeli authority over the whole of Jerusalem.
 - This assertion and the expansion of Jewish settlements within Palestine's West Bank are likely to dissuade any form of genuine peace initiative.
 - Hence, the law further erodes the credibility of Israel's professed support of an independent Palestinian state and its commitment to the two-nation theory.
 - Israel has recently passed another law that sought to place limits on Arabs living under its authority to access Israel's High Court.
 - Another law bans individual who are seeking "political action against Israeli state or prosecution of Israeli soldiers" abroad from entering school premises.
 - All these laws together allow the Israeli state to institutionalise discrimination, deepen illegal settlements in Palestinian land and stifle free speech against it.

9.10 Ethiopia - Eritrea War Ends

Ethiopia and Eritrea have recently announced the end of the deadly "20-year war" between them, which killed over 80,000 people.

- Eritrea broke from its federation with Ethiopia in April 1993.
- It became an independent country located strategically at the mouth of the Red Sea on the Horn of Africa, bordering crucial shipping lanes.
- **War** - In 1999, war broke out between the two countries over the control of Badme, a border town of no apparent significance.
- Massive displacements of population followed, families were torn apart, and the local trading economy was utterly destroyed.
- **Detente** - In 2000, "Agreement on Cessation of



Hostilities” was signed, and later a Boundary Commission was established to settle the dispute.

- The Commission gave its ruling in 2002, awarding Badme to Eritrea, but Ethiopia demanded certain pre-conditions to accept the ruling.
- In this backdrop, Badme continued to remain under Ethiopian control and there was an effective stalemate with intermittent border clashes.
- **Peace** - Ethiopia’s ruling Ethiopian People’s Revolutionary Democratic Front (EPRDF) had recently indicated its desire to end hostilities with Eritrea.
- From then on, things have moved rapidly and Ethiopia has also announced that it would fully comply with the peace agreement of 2000.
- **Implications** - Ethiopia is landlocked, and through the years of the war with Eritrea, it has been dependent heavily on Djibouti for access to the sea.
- The current peace deal will likely give Ethiopia access to Eritrean ports, which will help in counter balancing the dependence on Djibouti.
- For Eritrea too, peace is likely to work to its benefit, as it can divert scarce resources away from the military to other productive avenues.

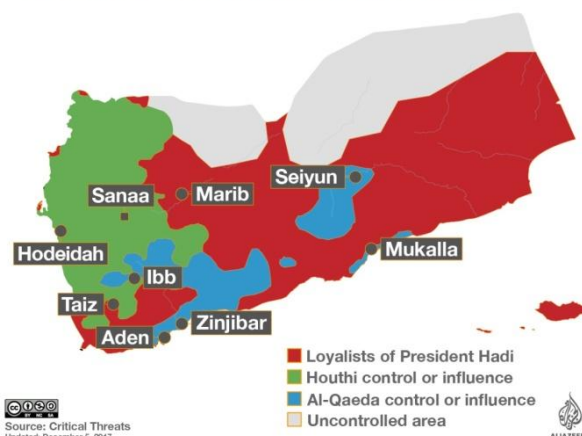
9.11 Responding to Yemen Civil War

The rising toll on civilian lives calls for serious measures to address the Yemen civil war.

- The Yemeni Civil War is an ongoing conflict that began in 2015.
- It is the tussle between two factions claiming to constitute the Yemeni government.
- One is Yemen’s Shia Houthi rebels, loyal to the former President.
- They are in clashes with forces loyal to the current government.
- The Houthi forces captured huge swathes of territory, significantly the Yemen capital Sana'a.
- Al-Qaeda in the Arabian Peninsula (AQAP) and the Islamic State of Iraq and the Levant (ISIL) are also involved in the conflict.
- Saudi Arabia led military intervention in Yemen began over 3 years ago.
- A coalition led by Saudi Arabia launched military operations by using airstrikes.
- This is to restore the Yemeni government which is overthrown by Houthi.
- The Saudi-led coalition is backed by the U.S.
- There is absence of a functional government in the country and the rebels are fighting the Saudi invasion.
- The attacks have targeted public infrastructure, killed thousands of civilians, and displaced many more.
- UN reports that from March 2015 to March 2017, around 16,000 people have been killed in Yemen, including 10,000 civilians.
- Saudi Arabia's use of excessive force has plunged Yemen among the poorest in West Asia.
- The military intervention had even led to a blockade,



Yemen: Who controls what



affecting food and aid supplies.

- More than eight million people are threatened by acute hunger.
- The health-care system has collapsed and people have been cut off from regular access to clean water.
- In recent years, the country has had an unprecedented cholera outbreak that killed over 2,000 people.
- This is primarily due to the fact that the US Congress wanted any revised deal to include both Canada and Mexico.
- This is because Canada is the major export destination for 36 US states. So there are demands that the decisions “do no harm” to the deal.

9.12 Sri Lanka's Political Crisis

- The government of Sri Lanka is led by the president of the country who is the head of state and commander in chief of the armed forces.
- The presidential system is determined by the Sri Lankan constitution and the current constitution of Sri Lanka is the third constitution since the country got independence in 1948.
- The Sri Lankan government comprises the president and legislature that are elected on a national level, and the elections are held after every six years.
- The President of Sri Lanka is elected by the people to serve a term of five years.
- The elected president who is the head of cabinet is also responsible for appointing cabinet ministers, who are responsible to Parliament.
- The deputy to the President in Sri Lanka is the prime minister who is also the leader of the ruling party in Parliament.
- The President is responsible for dissolving the current cabinet and appointing a new one in the event that a parliamentary no confidence vote is passed.
- The president has also the power to suspend, summon, end a legislative session and dissolve Parliament at any time if it has served for one year.
- The Sri Lanka has a multi-party system where there are two dominant parties which includes the New Democratic Front (NDF) and the United People's Freedom Alliance (UPFA).
- Sirisena's SLFP and Wickremesinghe's UNP had come together to form the Unity Government in August 2015 following the general elections in the country.
- **Present Events** – The President Sirisena dismissed Ranil Wickremesinghe, the sitting prime minister, and replaced him with Mahinda Rajapaksa, a controversial former strongman.
- When a majority of lawmakers refused to back the move, Sirisena tried to dissolve parliament.
- Members of parliament voted twice to reinstate Wickremesinghe, while Sri Lanka's Supreme Court ruled that Sirisena's attempt to dissolve parliament was unconstitutional.
- Hence, Wickremesinghe was once again sworn in as prime minister by Sirisena.
- **Concerns of the President's move** - Under the Constitution, the Prime Minister's office does not fall vacant unless in circumstances of his death, voluntary resignation or loss of majority in a crucial vote in Parliament.
- Since none of these is true in the current situation, a new appointment by the President is constitutionally ruled out.
- On the dissolution of Parliament, the President does not have the powers to dissolve Parliament within four-and-a-half years of its convening, unless requested by two-thirds of its members, as per the 19th Amendment.
- The President's side has invoked Article 33(2) C that lists the powers to summon, prorogue and dissolve Parliament, in addition to his existing powers.
- All the same, critics have noted that while the Article is a general enumeration of his powers, it is the 19th Amendment's specific provision that must prevail in such a situation.

9.13 Quad Talks in Singapore

India held the official level talks on the 'Quad' Asia-Pacific formation on the sidelines of the East Asia Summit in Singapore.

- The Quadrilateral Group consists of India, Australia, Japan and the U.S.
- The Quad has a shared objective to ensure and support a “free, open and prosperous” Indo-Pacific region.
- The present meeting comes a year after it was launched in Manila during the ASEAN.
- The discussion will provide an opportunity to exchange ideas about the future of the Asia-Pacific region.
- The meeting is likely to focus on infrastructure projects and on maritime security schemes in the region.
- Building humanitarian disaster response mechanisms is also expected to be on the agenda.
- **Japan** - India and Japan have recently announced a series of joint projects.
- This is in terms of what they have called the “**Asia-Africa growth corridor**” in the Indo-Pacific region.
- Among the projects that they will work together on are
 - i. the Jamuna Railway bridge in Bangladesh
 - ii. other bridges in northeastern States of India
 - iii. housing, school and electricity projects in Rohingya areas in Myanmar
 - iv. an LNG plant in Sri Lanka
 - v. a cancer hospital in Kenya
- **Australia** - Australia has unveiled an ambitious \$2 billion project to fund infrastructure.
- There are plans to build maritime and military infrastructure in the Pacific region, where it is willing to cooperate with other Quad members.
- **Others** - The four countries are expected to talk about other regional developments.
- These include Maldives elections, the collapse of the government in Sri Lanka and the latest developments in North Korea.

9.14 Chagos Island

- There is a dispute between Mauritius and UK over the sovereignty of Chagos islands in the Indian Ocean.
- It is home to Diego Garcia, the key military base of the U.K. and the U.S. in the Indian Ocean.
- The island was taken by UK before the Mauritius decolonisation.
- After the Independence in 1968, most of the islanders were deported to give the island in lease to US for its airbase.
- The evicted islanders have been campaigning for their right to return home.
- A resolution by Mauritius was passed in UN general assembly asking the International Court of Justice (ICJ) to offer a legal opinion in the issue.
- Twenty-two countries and the African Union are going to appear before ICJ to give their statements.
- India has backed Mauritius over its claim on the disputed Chagos islands.
- Australia and the United States are expected to back Britain's position.



9.15 Intermediate-Range Nuclear Forces Treaty

- The treaty was signed in the year 1987 between United States and Soviet Union.
- It required both countries to eliminate and permanently disown all of their nuclear and conventional ground-launched ballistic and cruise missiles with ranges of 500 to 5,500 kilometers.
- It did not cover sea-launched missiles.
- The treaty marked the first time the superpowers had agreed to reduce their nuclear arsenals, eliminate entire category of nuclear weapons.
- As a result of this treaty, superpowers destroyed a total of 2,692 short, medium and intermediate-range missiles by the treaty's implementation deadline of June 1, 1991.
- In 2014, United States has alleged that Russia violated the treaty and it has deployed the non-compliant missile.
- Recently, US announced that it is withdrawing from the treaty. USA Congress approval for the same is yet to be taken.

9.16 Seoul Peace Prize

- The Seoul Peace Prize Committee has decided to confer the 2018 Seoul Peace Prize on Indian Prime Minister Shri Narendra Modi.
- It was established in 1990 to commemorate the success of the 24th Olympic Games held in Seoul, Republic of Korea.
- In 24th Olympic games, 160 nations from across the world took part, creating harmony and friendship and a worldwide atmosphere of peace and reconciliation.
- It has been awarded biennially to those individuals who have made their mark through contributions to the harmony of mankind, reconciliation between nations and to world peace.
- Past laureates include former UN Secretary General Kofi Annan, German Chancellor Angela Merkel and renowned international relief organizations like Doctors Without Borders and Oxfam.

10. MAJOR DEFENCE EXERCISE

Joint Exercises conducted by Army

S. No.	Country	Exercise
1.	Australia	Ex AUSTRALIA HIND
2.	Bangladesh	Ex SAMPRITI
3.	China	Ex HAND IN HAND
4.	France	Ex SHAKTI
5.	Indonesia	Ex GARUDA SHAKTI
6.	Kazakhstan	Ex PRABAL DOSTYK
7.	Kyrgyzstan	Ex KHANJAR
8.	Maldives	Ex EKVURIN
9.	Mongolia	Ex NOMADIC ELEPHANT



		Ex KHAN QUEST
10.	Nepal	Ex SURYA KIRAN (BIANNUAL)
11.	Oman	AL NAGAH (SUCCESS)
12.	Russia	Ex INDRA
13.	Seychelles	Ex LAMITIYE
14.	Singapore	Ex AGNI WARRIOR
		Ex BOLD KURUKHESTRA
15.	Sri Lanka	Ex MITRA SHAKTI
16.	Thailand	Ex MAITREE
		Ex COBRA GOLD (Observer Plus)
17.	UK	Ex AJEYA WARRIOR
18.	USA	Ex YUDHABHAYAS
		Ex VAJRA PRAHAR

Joint Exercises conducted by Navy

S. No.	Country	Exercise
1.	Australia	AUSINDEX
		KAKADU
2.	Brazil & South Africa	IBSAMAR
3.	Brunei	ADMM+ Exercise (Multilateral)
4.	France	VARUNA
5.	Indonesia	IND-INDO CORPAT (Bi-annual)
		IND-INDO BILAT
		Ex KOMODO (HADR) (Multilateral)
6.	Malaysia	ARF DIREx
7.	Myanmar	IMCOR

8.	Oman	Naseem-al-Bahr
9.	Russia	INDRA NAVY
10.	Singapore	SIMBEX
11.	Sri Lanka	SLINEX
		IN-SLN SF Exercise
12.	Thailand	INDO-THAI CORPAT (Bi-annual)
13.	UK	KONKAN
14.	USA	MALABAR
		RIMPAC (Multilateral)

Joint Exercises conducted by Air Force

S. No.	Country	Exercise
1.	France	Ex GARUDA-V
2.	Oman	Ex EASTERN BRIDGE-IV
3.	Russia	Ex AVIAINDRA-14
4.	Singapore	JOINT MILITARY TRAINING
5.	Thailand	SIAM BHARAT
6.	UAE	Ex DESERT EAGLE-II
7.	UK	Ex INDRADHANUSH-IV
8.	USA	Ex RED FLAG

PralaySahayam - The exercise was conceptualised as Humanitarian Assistance and Disaster Relief (HADR) exercise based on an urban flooding scenario in the twin cities of Hyderabad & Secunderabad.

The Exercise synergised the efforts of all stakeholders Army, Navy, Air Forces, NDRF, civil administration, CAPFs and other civil agencies.

Op Sahayam -In the aftermath of cyclone 'Ockhi' the IAF unrelentingly pursued HADR along with NDRF team.