

# Current Affairs



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## Polity & Governance



## Popular Front of India: The organisation facing chances of ban



### Issue

The government in Uttar Pradesh has sent a report to the Ministry of Home Affairs (MHA) recommending a ban on the Popular Front of India (PFI).

### Background

The government has accused the organisation and its political front, the Social Democratic Party of India (SDPI) of “masterminding and instigating violence” during the recent protests against the Citizenship (Amendment) Act (CAA) and the proposed National Register of Citizens (NRC).

### Details

Government members said PFI was the “incarnation” of the Students Islamic Movement of India (SIMI) and the PFI’s role has been established in vandalism in the state.

The organisation has been accused earlier of multiple violent and extremist incidents. Police in Kerala and Karnataka have found evidence of the use of lethal weapons in PFI centres.



## PFI

The PFI was set up in 2006 as a federation of the National Development Fund (NDF), which was formed in Kerala in 1993 and subsequently emerged as the Manitha Neethi Pasarai (MNP) in Tamil Nadu and Karnataka Forum for Dignity (KFD) in Karnataka.

It calls itself a “socio-political movement that strives for the empowerment of the Muslims and other marginalised sections of society”.

## Students Islamic Movement of India (SIMI)

SIMI, which was formed in 1977, is banned under the Unlawful Activities (Prevention) Act, 1967. It is accused of standing for the propagation of Islamist jihad and the establishment of Islamic rule in India.

## SDPI

SDPI is PFI's political front, founded, according to the organisation, for the “advancement and uniform development” of all citizens, including Muslims, Dalits, Backward classes and Adivasis.

SDPI was formed and declared in 2009, and was registered with the Election Commission of India in 2010.

The SDPI wants a complete revamp of the system. The SDPI claims to uphold values including national integration, communal amity, and social harmony.

Notes



## Powers of Lt Governor



### Issue

Puduchery Chief Minister V. Narayanasamy has issued an order declaring as “illegal” and “null and void” an order of Lieutenant Governor Kiran Bedi annulling the appointment of State Election Commissioner T.M. Balakrishnan.

### Background

The appointment of State Election Commissioner of Puducherry is an executive action but his removal can only be through a legislative action as referred in Article 243 K, 243 L & 243- ZB of the Constitution of India.

### Details

The powers a Lt Governor has in the state they administer is equivalent to that of the President. They can appoint Chief Ministers, Ministers, the State Election Commissioner and judges of the District Courts.

The Lt Governor can also dissolve the state Assembly if they see the need, and if the Assembly is not in session, they can promulgate ordinances. Based on the recommendation of the Election Commission, the Governor can also disqualify a legislator.

Only three Union Territories, Andaman and Nicobar, Delhi and Puducherry, have Lt. Governors.

The Supreme Court had said that the Lt. Governor of Delhi has more powers than the Governor of a State and he does not have to listen to the advice of the Council of Ministers.



In the case of Delhi, since portfolios like land, police and public order fall under the domain of the Centre, of which the Lt. Governor is a representative, he holds more powers than a Governor.

### Lt Governor and his powers

The LG, like the Governor, acts a titular head of the Union Territory. But, the powers of an LG are wider than that of a Governor. This is because, a Governor of a state has to act solely on the aid and advice of the Council of Ministers, whereas, the LG does not need the approval of the Council of Ministers on every matter.

In the Articles 239 and 239AA of the Constitution of India, the functions, powers and duties of the Lt. Governor are defined clearly. He is a representative of the President and acts on the aid and recommendation of the council of ministers.

Under President's Rule, the Lt. Governor becomes full-fledged executive head of the government and has the power to appoint a group of advisors who act as council of ministers. The duration of President's rule is also subject to discretion of the Lt. Governor.

Notes



## States can regulate minority institutions



### Issue

The Supreme Court held that the state is well within its rights to introduce a regulatory regime in the “national interest” for taking some measures in governing minority institutions.

### Background

The judgment came on a challenge to the validity of the West Bengal Madrasah Service Commission Act of 2008. The State Act mandated that the process of appointment of teachers in aided madrasahs, recognised as minority institutions, would be done by a Commission, whose decision would be binding.

### Details

The Supreme court said that the state had the right to provide minority educational institutions with well-qualified teachers in order for them to “achieve excellence in education.”

It also said that the managements of minority institutions cannot ignore such a legal regime by saying that it is their fundamental right under Article 30 of the Constitution to establish and administer their educational institutions according to their choice.

The judgement said the regulatory law should however balance the dual objectives of ensuring standard of excellence as well as preserving the right of the minorities to establish and administer their educational institutions.



It said that **Article 30(1)** (right of minorities to establish and administer educational institutions of their choice) was **neither absolute nor above the law**.

It allowed an objection to be raised if an unfavourable treatment is meted out to an educational institution established and administered by minority.

### Level of freedom based on education

The court broadly divides education into two categories, secular education and education “directly aimed at or dealing with preservation and protection of the heritage, culture, script and special characteristics of a religious or a linguistic minority.”

When it comes to the latter, the court advocated “**maximum latitude**” to be given to the management to appoint teachers.

The court reasons that only teachers who believe in the religious ideology or in the special characteristics of the concerned minority would alone be able to imbibe in the students admitted in such educational institutions, what the minorities would like to preserve, profess and propagate.

However, minority institutions where the curriculum was “**purely secular**”, the intent must be to impart education availing the best possible teachers.

### Cultural and Educational Rights (Article 29 and Article 30 under Fundamental Rights)

#### Article 29: Protection of interests of minorities

(1) 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.

(2) 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: Right of minorities to establish and administer educational institutions

(1) All minorities, whether based on **religion or language**, shall have the right to establish and administer educational institutions of their choice.

(1A) In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, referred to in clause (1), the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause.

(2) 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.

### T.M.A Pai case

T.M.A. Pai Foundation v. State of Karnataka it was held that “the right to establish and maintain educational institutions may also be sourced to **Article 26 (a)**, which grants, in positive terms, the right to every religious denomination or any section thereof to establish and maintain institutions for religious and charitable purposes, subject to public order, morality and health.

Notes



## Demand to include Tulu language in 8th schedule



### Issue

A petition has been floated to include Tulu language in the 8th schedule of the constitution, which will give it constitutional protection.

### Background

Tulu is a Dravidian language whose speakers are concentrated in two coastal districts of Karnataka and in Kasaragod district of Kerala. Tulu is also termed one of the most highly developed languages of the Dravidian family.

### Details

Among the legion of languages in India, the Constitution has 22 blue-eyed languages. They are protected in **Schedule VIII** of the Constitution.

### Benefits

At present, Tulu is not an official language in India or any other country. Efforts are being made to include Tulu in the Eighth Schedule of the Constitution.

If included in the Eighth Schedule, Tulu would get recognition from the Sahitya Akademi.

Tulu books would be translated into other recognised Indian languages. Members of Parliament and MLAs could speak in Tulu in Parliament and State Assemblies, respectively.

Candidates could write all-India competitive examinations like the Civil Services exam in Tulu.



### Way Ahead

Placing of all the deserving languages on equal footing will promote social inclusion and national solidarity. It will reduce the inequalities within the country to a great extent.

### Constitutional provision

Article 29 of the Constitution provides that a section of citizens having a distinct language, script or culture have the right to conserve the same.

### 8th Schedule

The Eighth Schedule to the Constitution of India lists the official languages of the Republic of India.

The Government of India is now under an obligation to take measures for the development of these languages.

The languages in this schedule include Assamese, Bengali, Bodo, Dogri, Gujarati, Hindi, Kannada, Konkani, Maithili, Malayalam, Manipuri, Marathi, Nepali, Oriya, Punjabi, Sanskrit, Santali, Sindhi, Tamil, Telugu and Urdu.

Of these languages, 14 were initially included in the Constitution.

Subsequently, Sindhi was added in 1967 by 21st constitutional amendment act; Konkani, Manipuri and Nepali were added in 1992 by 71st Constitutional Amendment Act; and Bodo, Dogri, Maithili and Santali were added in 2003 by 92nd Constitutional Amendment Act.



## Ordinance for FDI in coal mining



### Issue

The Union Cabinet approved an ordinance to amend two laws to ease mining rules, enabling foreign direct investment in coal mining.

### Background

Government sources said the historic decision would boost the ease of doing business and increase the growth avenues.

### Details

It also said that “end-use restrictions” had been done away with allowing anyone to participate in the auction of coal blocks. The ordinance would strengthen the auction process of those mines whose leases were expiring on March 31, 2020.

They also said the steel industry would get cheaper inputs, leading to an increase in ‘competitiveness’.

### Ordinance and ordinance making powers

#### Ordinance

Article 123 of the Constitution grants the President certain law making powers to promulgate Ordinances when either of the two Houses of Parliament is not in session and hence it is not possible to enact laws in the Parliament.



An Ordinance may relate to any subject that the Parliament has the power to legislate on. Conversely, it has the same limitations as the Parliament to legislate, given the distribution of powers between the Union, State and Concurrent Lists.

### Powers

If at any time, except when both Houses of Parliament are in session, the President is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require.

An Ordinance promulgated under this article shall have the same force and effect as an Act of Parliament, but every such Ordinance:

(a) shall be laid before both Houses of Parliament and shall cease to operate at the expiration of **six weeks** from the reassembly of Parliament, or, of before the expiration of that period resolutions disapproving it are passed by both Houses, upon the passing of the second of those resolutions

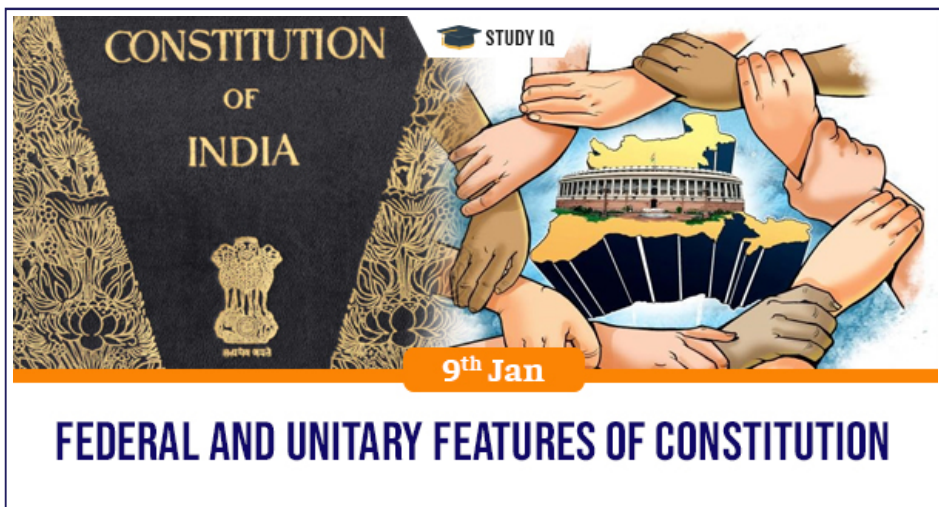
(b) may be withdrawn at any time by the President.

If and so far as an Ordinance under this article makes any provision which Parliament would not under this Constitution be competent to enact, it shall be void.

Notes



## Federal and unitary features of constitution



### Issue

Indian constitution is a quasi-federal form of constitution where powers are unequally distributed between centre and state. The constitution of India itself is quasi-federal in characteristics.

### Details

#### Federal features

##### Distribution of Powers

An essential feature of a federal Constitution is the distribution of powers between the central government and the governments of the several units (provincial governments) forming the federation. Federation means the distribution of the power of the State among a number of co-ordinate bodies, each originating from and controlled by the Constitution.

##### Supremacy of the Constitution

This means that the Constitution should be binding on the federal and state governments. Neither of the two governments should be in a position to override the provisions of the Constitution relating to the powers and status which each is to enjoy.

##### Written Constitution

The Constitution must necessarily be a written document. It will be practically impossible to maintain the supremacy of the Constitution, unless the terms of the Constitution have been reduced into writing.



### Rigidity

It means that the power of amending the provisions of the Constitution which regulates the status and powers of the federal and state government should not be confined exclusively either to the federal or state governments, but must be a joint act of both.

### Unitary features

#### Union of States

Article 1 of the Constitution describes India as a “Union of States”, which implies two things: firstly, it is not the result of an agreement among the States, as it is there in federations and secondly, the States have no freedom to secede or separate from the Union. The Indian federation is a union because it is indestructible and helps to maintain the unity of the country.

#### Power to form new States and to change existing boundaries

In the USA, it is not possible for the federal government to unilaterally change the territorial extent of a State but in India, the Parliament can do so even without the consent of the State concerned. Under Art 3, Centre can change the boundaries of existing States and can carve out new States.

#### Unequal Representation in the Legislature

The equality of units in a federation is best guaranteed by their equal representation in the Upper House of the federal legislature (Parliament). In a true federation such as that of United States of America every State irrespective of their size in terms of area or population, sends two representatives to the Upper House i.e. Senate.

#### Single Constitution

There is a single Constitution for both Union and the States. There is no provision for separate Constitutions for the States. In the USA and Australia, the States have their own Constitutions which are equally powerful as the federal Constitution.



### Single citizenship

India follows the principle of uniform and single citizenship, but in the USA and Australia, double citizenship is followed. This means that people are citizens of both the federal State and their own State which has its own Constitution.

### Power to make laws on the subjects in State list

The Parliament has the exclusive authority to make laws on the 100 subjects of the Union list, but the States do not have such exclusive rights over the State list. Under certain circumstances, the Parliament can legislate on subjects of State list.

### Emergency provisions

The President of India can declare three different types of emergency rules under Articles 352, 356 and 360 for an act of foreign aggression or internal armed rebellion, failure of constitutional machinery in a State and financial emergency respectively.

### Unified Judiciary

The federal principle envisages a dual system of Courts. But, in India there is a single integrated judicial system for whole of the country. We have unified Judiciary with the Supreme Court at the apex. The High Courts work under its supervision.

### All India Services

Under Article 312, the All India Services officials IAS, IPS and IFS (Forest) are appointed by the Centre, but are paid and controlled by the State. However, in case of any irregularities or misconduct committed by the officer, the States cannot initiate any disciplinary action except suspending him/her.



## SC judgement on internet shutdown



### Issue

The Supreme Court has for the first time set the stage for challenging suspension orders before courts by directing government to publish all orders mandatorily.

### Background

Although the Temporary Suspension of Telecom Services (Public Emergency or Public Service) Rules, 2017 issued under the Telegraph Act, the law that deals with restricting Internet access does not provide for publication or notification of the order suspending Internet.

### Details

The court declared that it is a “settled principle of law, and of natural justice” that requires publication of such orders, “particularly one that affects lives, liberty and property of people”.

This allows individuals to now challenge the orders before courts in J&K and rest of India. While suspension orders were always subject to judicial review, lack of availability of such orders in public domain prevented such challenges before courts.

India tops the list of Internet shutdowns globally. According to Software Freedom Law Center’s tracker, there have been 381 shutdowns since 2012, 106 of which were in 2019.



The court also said that there should not be excessive burden on free speech even if complete prohibition is imposed, and the government has to justify imposition of such prohibition and explain why lesser alternatives will be inadequate.

The Supreme Court also declared access to internet a fundamental right. A government cannot deprive the citizens of fundamental rights except under certain conditions explicitly mentioned in the Constitution.

Indian constitution makes the right to freedom of speech and expression a fundamental right for all citizens. It has been listed in Article 19 (1)(a) of the Constitution. The Supreme Court has on many occasions expanded the scope of the right to freedom of speech and expression.

The Supreme Court ruling is also in sync with the United Nations recommendation that every country should make access to Internet a fundamental right. In India, Kerala had become the first state in 2017 to declare access to Internet "a basic human right".

### Article 19

(1) All citizens shall have the right  
to freedom of speech and expression  
to assemble peaceably and without arms;  
to form associations or unions;  
to move freely throughout the territory of India;  
to reside and settle in any part of the territory of India; and  
omitted (the right to property)  
to practise any profession, or to carry on any occupation, trade or business.

The only restrictions which may be imposed are those mentioned in clause (2) of Article 19. These are:

the interests of the sovereignty and integrity of India,  
the security of the State,  
friendly relations with foreign States,  
public order, decency or morality  
in relation to contempt of court, defamation or  
incitement to an offence



## Centre-States dispute under Article 131



### Issue

Kerala became the first state to challenge the Citizenship (Amendment) Act (CAA) before the Supreme Court. The Kerala government has moved the apex court under Article 131 of the Constitution.

### Background

Article 131 has the provision under which the Supreme Court has original jurisdiction to deal with any dispute between the Centre and a state; the Centre and a state on the one side and another state on the other side; and two or more states.

### Details

#### Original jurisdiction (Article 131)

The Supreme Court has three kinds of jurisdictions: original, appellate and advisory.

Under its **advisory jurisdiction**, the President has the power to seek an opinion from the apex court under Article 143 of the Constitution.

Under its **appellate jurisdiction**, the Supreme Court hears appeals from lower courts.

In its extraordinary **original jurisdiction**, the Supreme Court has exclusive power to adjudicate upon disputes involving elections of the President and the Vice President, those that involve states and the Centre, and cases involving the violation of fundamental rights.



For a dispute to qualify as a dispute under Article 131, it has to necessarily be between states and the Centre, and must involve a question of law or fact on which the existence of a legal right of the state or the Centre depends.

Article 131 cannot be used to settle political differences between state and central governments headed by different parties.

The Centre has other powers to ensure that its laws are implemented. The Centre can issue directions to a state to implement the laws made by Parliament.

If states do not comply with the directions, the Centre can move the court seeking a permanent injunction against the states to force them to comply with the law.

Non-compliance of court orders can result in contempt of court, and the court usually hauls up the chief secretaries of the states responsible for implementing laws.

Notes



## Punjab's Right to Business bill



### Issue

The Punjab Cabinet gave its approval to a Punjab Right to Business Bill, 2020, a law aimed at ensuring ease of doing business for the Micro, Small and Medium Enterprises (MSME) sector.

### Background

The Punjab Department of Industries was preparing to bring an Ordinance, but since a special session of the Assembly has been called, the Right to Business Bill will also be brought before the House on January 17.

### Details

Under the law, an MSME unit can be set up after 'In-Principle' approval from the District Bureau of Enterprise, headed by the Deputy Commissioner, working under the guidance of the State Nodal Agency, headed by the Director, Industries.

Approval for units in approved Industrial Parks will be given in three working days. For new enterprises outside approved Industrial Parks, the decision on the "Certificate of In-Principle Approval" shall be taken by the District Level Nodal Agency within 15 working days.

Unit owners will have three and a half years after setting up the unit to obtain seven approvals from three departments.



The industries involving hazardous processes will have to obtain a Fire NOC and get approval for the factory building plan before setting up the unit. All units will have to get environmental clearance from the Pollution Control Board beforehand.

The Act will have overriding powers over various Acts of different departments that make approvals necessary before the setting up of small and medium units.

Notes

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## NIA act challenged by Chhattisgarh



### Issue

The Chhattisgarh government has moved the Supreme Court against the National Investigation Act, 2008 stating it is violative of the Constitution. In its civil suit, the government told the apex court the NIA should have no power over state policing matters.

### Background

This is the second instance this week when a state has sought to challenge a central legislation under Article 131 of the Constitution. The Kerala government had moved the Supreme Court against the Citizenship (Amendment) Act.

### Details

The law governs the functioning of India's premier counter-terror agency. It was introduced by then home minister P Chidambaram in the wake of the 26/11 Mumbai terrorist attacks and was passed in Parliament with very little opposition.

The Act makes the National Investigation Agency the only truly federal agency in the country, along the lines of the FBI in the United States, more powerful than the CBI.

It gives the NIA powers to take suo motu cognisance of terror activities in any part of India and register a case, to enter any state without permission from the state government, and to investigate and arrest people.



According to the state, the 2008 Act allows the Centre to create an agency for investigation, which is a function of the state police.

### Point of conflict

The petition says the 2008 Act takes away the state's power of conducting an investigation through the police, while conferring "unfettered, discretionary and arbitrary powers" on the Centre.

The provisions of the Act leave no room of coordination and pre-condition of consent, in any form whatsoever, by the Central government from the State government which clearly repudiates the idea of state sovereignty as envisaged under the Constitution of India.

### New changes

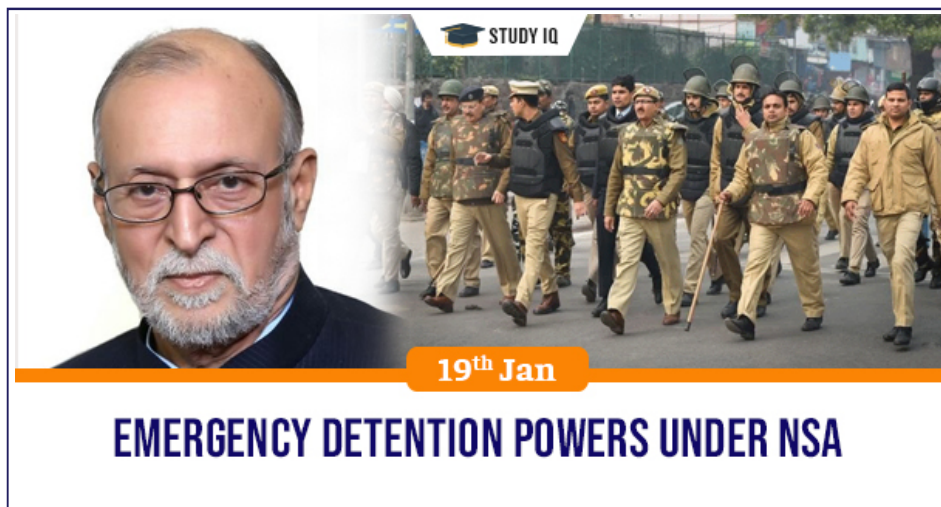
The **2019 NIA Amendment Act** expanded the type of offences that the investigative body could investigate and prosecute. The agency can now investigate offences related to human trafficking, counterfeit currency, manufacture or sale of prohibited arms, cyber-terrorism, and offences under the Explosive Substances Act, 1908.

The amendment also enables the central government to designate sessions courts as special courts for NIA trials.

The Unlawful Activities (Prevention) Amendment (UAPA), also passed in 2019, allows an NIA officer to conduct raids, and seize properties that are suspected to be linked to terrorist activities without taking prior permission of the Director General of Police of a state. The investigating officer only requires sanction from the Director General of NIA.



## Emergency detention powers under NSA



### Issue

The Lieutenant Governor of Delhi, Anil Baijal, has issued an order giving the Police Commissioner the power to detain individuals under the tough National Security Act (NSA), 1980.

### Background

Given the daily protests in the national capital against the Citizenship (Amendment) Act (CAA), the National Population Register (NPR), and the proposed National Register of Citizens (NRC), the order has triggered apprehensions.

### Details

The order says that the central or state government may, in order to prevent any person from acting in any manner prejudicial to the security of the State or to the maintenance of Public order or to the maintenance of supplies and services essential to the community, make an order directing that such person be detained.

The period specified in an order made by the State Government under this sub-section shall not, in the first instance, exceed three months.



### National Security Act, 1980

The NSA allows preventive detention of an individual for months if the authorities are convinced that the individual is a threat to national security and law and order.

The NSA was described as “an Act to provide for preventive detention in certain cases and for matters connected therewith”. The Act repealed the National Security Ordinance, 1980.

The Act has been widely criticised as being “draconian” because of the powers of preventive detention that it gives to the government. The detention under the NSA can extend up to 12 months or even for longer if the government is able to produce more evidence against the detainee.

Notes

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## States challenging validity of central law



### Issue

Multiple states such as Kerala, Punjab and Chhattisgarh have moved the Supreme Court under Article 131, challenging central laws such as CAA and NIA (Amendment) act 2019. It is therefore necessary to check for the validity of this move.

### Background

Kerala's suit asks for a declaration that the CAA, 2019, is violative of the Constitution, and against the principle of secularism that is a basic feature of the Constitution.

### Details

Article 131 confers exclusive jurisdiction on the Supreme Court in disputes involving States, or the Centre on the one hand and one or more States on the other. This means no other court can entertain such a dispute.

It is well-known that both High Courts and the Supreme Court have the power to adjudicate cases against the State and Central governments. In particular, the validity of any executive or legislative action is normally challenged by way of writ petitions, under Article 226 of the Constitution in respect of High Courts, and, in respect to fundamental rights violations, under Article 32 in the Supreme Court.



State governments cannot complain of fundamental rights being violated. Therefore, the Constitution provides that whenever a State feels that its legal rights are under threat or have been violated, it can take the dispute to the Supreme Court under Article 131.

### Are the suits valid?

There are two conflicting opinions of the Supreme Court on this point. In 2011, in *State of Madhya Pradesh v. Union of India and Another*, the court said: "...when the Central laws can be challenged in the State High Courts as well and also before this Court under Article 32, normally, no recourse can be permitted to challenge the validity of a Central law under the exclusive original jurisdiction of this Court provided under Article 131." However, in *State of Jharkhand vs. State of Bihar and Another* (2014), another Bench said it was unable to accept the view that the constitutionality of a law cannot be raised in a suit under Article 131.

### Kerala's argument

Kerala's suit points out that under Article 256 of the Constitution, the State would be compelled to comply with the CAA and rules and orders passed by the Centre.

As it believes that these laws and rules are arbitrary, unreasonable, and violative of fundamental rights, a dispute involving law and fact has indeed arisen between Kerala and the Centre.

This dispute involves both the legal rights of the State and the fundamental rights and other legal rights of its inhabitants.

### Way ahead

Given the reference by a two-judge Bench, the Supreme Court may have to constitute a larger Bench to decide the question whether the suits challenging central laws are maintainable.



## ‘Lese Majeste’



### Issue

Kerala Governor Arif Mohammad Khan invoked his authority to ask the executive to submit why it kept the Raj Bhavan in the dark about the move to appeal against the citizenship law in the Supreme Court.

### Background

The governor pointed out in a letter to the Chief Secretary that the Chief Minister was duty-bound under the rules of business of the government to refer specified category of cases that concerned Centre-State relations or involved the Supreme Court to the Governor before the administration acted.

### Details

The governor said that the government had crossed a line by not informing the constitutional head of State about its decision to challenge the Citizenship (Amendment) Act, a Central law, in the Supreme Court. The State Law Minister contended the State was not in conflict with the Centre. Hence, there was no imperative to inform the Governor. The State had merely invoked the provisions of Article 131 of the Constitution to file a civil suit in the Supreme Court against the CAA.



### Lèse Majestes

Lèse-majesté is a French term meaning "to do wrong to majesty" and is an offence against the dignity of a reigning sovereign or against a state.

Lèse-majeste is defined variously as "a crime against the sovereign", "offense against a ruler's dignity as head of the state", and "treason" has largely been relegated to history but for glaring examples such as Thailand, where its use is blamed for stifling dissent and for sending people behind bars for long years.

Under this law, social media use is also monitored, and posting content considered seditious, as well as pressing the "Like" button on Facebook on such content, has led to prison time.

Notes

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## Verma report on crimes against women



### Issue

The Supreme Court has asked the Centre to respond to a plea filed by a law student seeking the implementation of the Justice J.S. Verma Committee report on crime against women and children.

### Background

The report was submitted to the then Prime Minister on January 23, 2013 on various aspects of crime against women and children. The committee was formed after the Nirbhaya rape and murder incident in the national capital in December 2012 to suggest various measures to check increasing crimes against women.

### Details

The litigant said that, though the report was submitted on January 23, 2013 to the Union of India, a majority of the recommendations were not implemented even after passage of seven long years.

This has resulted in unrest among citizens more particularly victims/parents of rape and sexual harassment.

The increase in rape and sexual harassment incidents across the country and delay in punishing the culprits had been motivating the "instant justice" concept.



### J.S.Verma report highlights

**Punishment for Rape:** The panel has not recommended the death penalty for rapists. It suggests that the punishment for rape should be rigorous imprisonment or RI for seven years to life.

Juvenile age should not be lowered.

**Punishment for other sexual offences:** The panel recognised the need to curb all forms of sexual offences and recommended - Voyeurism be punished with upto seven years in jail.

**Registering complaints and medical examination:** Every complaint of rape must be registered by the police and civil society should perform its duty to report any case of rape coming to its knowledge.

**Marriages to be registered:** As a primary recommendation, all marriages in India (irrespective of the personal laws under which such marriages are solemnised) should mandatorily be registered in the presence of a magistrate.

**Political Reforms:** The Justice Verma committee observed that reforms are needed to deal with criminalisation of politics.

If a woman ends up killing a rapist, she should claim right to self defence

Need to review Armed Forces Special Powers Act.

Try security personnel facing rape charges under ordinary law.

Trafficking of minors should be a serious offence.

Notes



## Andhra Pradesh planning to scrap Legislative Council



### Issue

The Andhra Pradesh government is contemplating abolishing the Legislative Council after CM Jagan Mohan Reddy complained about stalled bills in the council by the opposition.

### Background

The CM observed that the Council was working with a political agenda, which was evident from the rejection of two Bills on the formation of separate SC and ST Commissions and the introduction of English medium in government schools.

### Details

Legislative Council or Vidhan Parishad is the upper house in bicameral legislatures in some states of India.

Only six States in India had Councils and in A.P., the expenditure on it came to ₹60 crore per year.

### Abolishing Legislative council

Notwithstanding anything in **Article 168**, Parliament may by law provide for the abolition of the Legislative Council of a State having such a Council or for the creation of such a Council in a State having no such Council, if the Legislative Assembly of the State passes a resolution to that effect by a majority of the total membership of the Assembly and by a **majority of not less than two-thirds of the members of the Assembly present and voting.**



No such law as aforesaid shall be deemed to be an amendment of this Constitution for the purposes of Article 368.

### Election of Legislative Council

Total Number of the Legislative Council should not exceed the 1/3rd of the total number of members of the Legislative assembly, but it should not be less than 40.

The legislative council is permanent body but 1/3rd of its member retire every 2 years.

In legislative Council, there are 5 different categories of representation. 1/3rd of the total membership is elected by the electorates consisting of the members of the self Governing bodies in the state such as Municipalities, District Boards etc.

1/3rd members are elected by the members of the Legislative assembly of the State.

1/12th members are elected by an electorate of University Graduates.

1/12th members are elected by the electorate consisting of the secondary school teachers (3 year experience).

1/6th members nominated by the Governor on the basis of their special knowledge / practical experience in literature, art, science, cooperative movement or social service.

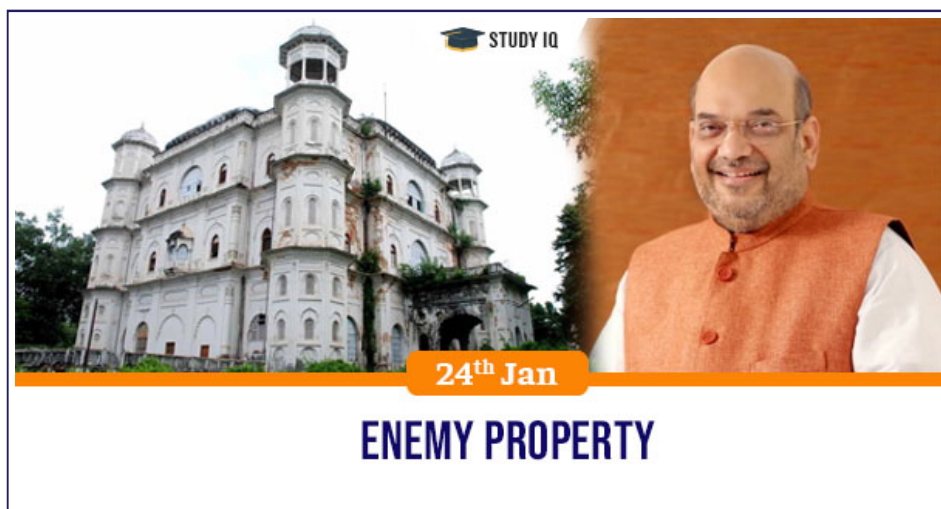
### Eligibility

To be eligible for membership of the Legislative council, a person Must be citizen of India Must have completed the age of 30 years Must possess such other qualifications as prescribed by the parliament by law.

The member should not hold the office of the profit. Should not be of unsound mind and should not be an undischarged insolvent.



## Enemy property



### Issue

A Group of Ministers (GoM) headed by Union Home Minister Amit Shah will monitor the disposal of over 9,400 enemy properties, which the government estimates is worth about Rs 1 lakh crore.

### Background

A total 9,280 enemy properties had been left behind by Pakistani nationals, and 126 by Chinese nationals. The government estimates the value of these properties at approximately Rs 1 lakh crore.

### Details

Two committees headed by senior officials will be set up for the disposal of immovable enemy properties vested in the Custodian of Enemy Property for India under The Enemy Property Act.

In the wake of the India-Pakistan wars of 1965 and 1971, there was migration of people from India to Pakistan. Under the Defence of India Rules framed under The Defence of India Act, 1962, the Government of India took over the properties and companies of those who took Pakistani nationality.



These “enemy properties” were vested by the central government in the Custodian of Enemy Property for India. The same was done for property left behind by those who went to China after the 1962 Sino-Indian war. The Enemy Property Act, enacted in 1968, provided for the continuous vesting of enemy property in the Custodian of Enemy Property for India. The central government, through the Custodian, is in possession of enemy properties spread across many states in the country.

### New amendments

In 2017, Parliament passed The Enemy Property (Amendment and Validation) Bill, 2016, which amended The Enemy Property Act, 1968, and The Public Premises (Eviction of Unauthorised Occupants) Act, 1971. The amended law provided that enemy property shall continue to vest in the Custodian even if the enemy or enemy subject or enemy firm ceases to be an enemy due to death, extinction, winding up of business or change of nationality, or that the legal heir or successor is a citizen of India or a citizen of a country which is not an enemy.

The Custodian, with prior approval of the central government, may dispose of enemy properties vested in him in accordance with the provisions of the Act, and the government may issue directions to the Custodian for this purpose.

### Importance of amendments

The thrust of the amendments was to guard against claims of succession or transfer of properties left by people who migrated to Pakistan and China after the wars.

The amendments denied legal heirs any right over enemy property. The main aim was to negate the effect of a court judgment in this regard.



## EC tells Supreme Court, criminally tainted candidates must not get tickets



### Issue

The Supreme Court has agreed to examine a proposition made by the Election Commission (EC) to ask political parties to not give ticket to those with criminal antecedents.

### Background

The Supreme Court's long string of judgments against criminalisation of politics has hardly scratched the surface of the deep rot.

### Details

A previous judgment had urged Parliament to bring a "strong law" to cleanse political parties of leaders facing trial for serious crimes. The court had suggested that Parliament frame a law that makes it obligatory for political parties to remove leaders charged with "heinous and grievous" crimes like rape, murder and kidnapping, only to a name a few, and refuse ticket to offenders in both parliamentary and Assembly polls.

### Grounds for disqualification

Parliament has the power to make a law in respect to the issue of qualification and disqualification of the membership in case:

He holds any office of profit under the Government of India or of any state, other than an office declared by a law of Parliament not to disqualify its holder.



India has four coral reef areas, Andaman and Nicobar Islands, Lakshadweep, Gulf of Mannar and the Gulf of Kachchh.

The ongoing initiative of coral restoration using biorock technology could potentially help to sustain the earlier successes. The technology helps corals, including the highly sensitive branching corals, to counter the threats posed by global warming.

He is of unsound mind and stand so declared by a competent court.

He is an undischarged insolvent.

He is not a citizen of India or has voluntarily acquired the citizenship of a foreign state, or is under any acknowledgement or allegiance or adherence to a foreign state, and

It is he so disqualified by or under any law of Parliament. It applies to the case of 'defection' as prescribed in tenth schedule.

Any dispute about the disqualification of a Member of Parliament shall be referred to the President, who will take a decision on the advice of the Election Commission and decision shall be final according to the article 103.

In case of disqualification on grounds of defection, the matter will be decided by speaker or chairman or Rajya Sabha as the case may be.

The representation of people act, 1951 also lays down certain conditions for disqualification of MPs and MLAs.

They are as follows:

He must not have been convicted by a court of any offence and sentenced to imprisonment for a period of more than two years.

He must not have been found guilty by a court or on election tribunal of certain election or corrupt practices in the elections.

He must not have been dismissed for corruption or disloyalty from government services.

He must not have failed to lodge on his election expenses within time and in a manner prescribed by law.

He must not have any interest in government contracts, execution of government work or services.

He must not be a director or managing agent nor hold an office of profit under any corporation in which the government has any financial interest.



## The Bodo accord



### Issue

The Centre, the Assam government and Bodo groups, including all factions of the militant National Democratic Front of Bodoland (NDFB), have signed an agreement for peace and development.

### Background

In 2003, the second Bodo Accord was signed by the extremist group Bodo Liberation Tiger Force (BLTF), the Centre and the state. This led to the BTC. BTC is an autonomous body under the Sixth Schedule of the Constitution.

### Details

The most significant point is that Accord marks the end of the armed movement. The coming of all factions of the armed groups together to sign the Accord is a big achievement.

The new Accord provides for alteration of area of BTAD and provisions for Bodos outside BTAD. A commission appointed by the state government will examine and recommend if villages contiguous to BTAD and with a majority tribal population can be included into the BTR while those now in BTAD and with a majority non-tribal population can opt out of the BTR.

The government will set up a Bodo-Kachari Welfare Council for focused development of Bodo villages outside BTAD, which opens up a way to potentially address the needs of Bodos outside BTAD.



It provides for more legislative, executive, administrative and financial powers to BTC; and amendments to the Sixth Schedule of the Constitution to “improve the financial resources and administrative powers of Bodoland Territorial Council.

### Bodos

The Bodo are a Tibeto-Burmese-speaking ethnic group in Assam. They are a part of the greater Bodo-Kachari family of ethnolinguistic groups and are spread across northeastern India and clustered strongly in Assam, along the eastern Duars.

Bodos are the single largest community among the notified Scheduled Tribes in Assam.

The Bodo people are recognized as a plains tribe in the **Sixth** Schedule of the Indian Constitution.

Traditionally, Bodos practiced **Bathouism**, which is the worshipping of forefathers, known as Obonglaoree. The shijou tree (in the genus Euphorbia) is taken as the symbol of Bathou and worshiped.

In addition to Bathouism, Bodo people also follow Hinduism, especially **Hoom Jaygya**. The important Hindu festival is the Kherai Puja, where an altar is placed in a rice field.

Notes



## Mercy petition



### Issue

The Supreme Court reserved its verdict on a petition by December 16, 2012 gangrape-murder convict Mukesh Kumar Singh, who had challenged the dismissal of his mercy plea by President Ram Nath Kovind.

### Background

The case dates back to December 16, 2012, when a 23-year-old woman was gangraped and assaulted inside a moving bus in South Delhi by six persons, before being thrown out on the road. She died on December 29, 2012, at a hospital in Singapore.

### Details

#### President's Clemency powers

Under the Constitution of India (**Article 72**), the President of India can grant a pardon or reduce the sentence of a convicted person, particularly in cases involving capital punishment. A similar and parallel power vests in the governors of each state under **Article 161**.

The pardoning power of the president is not absolute. It is governed by the advice of the Council of Ministers. This has **not been discussed by the constitution** but is the practical truth.



Both the President and Governor are **bound by the advice of their respective Councils of Ministers** and hence the exercise of this power is of an executive character. It is therefore **subject to Judicial Review** as held by the Supreme Court of India in the case of **Maru Ram v. Union of India (1980)**. It was subsequently confirmed by **Kehar Singh v. Union of India [1988]**.

In the case of **Epuru Sudhakar & Anr vs Govt. Of A.P. & Ors [2006]**, Supreme Court, it was held that clemency is subject to judicial review and that it cannot be dispensed as a privilege or act of grace.

There are five different types of pardoning which are mandated by law.

**Pardon:** means completely absolving the person of the crime and letting him go free. The pardoned criminal will be like a normal citizen.

**Commutation:** means changing the type of punishment given to the guilty into a less harsh one, for example, a death penalty commuted to a life sentence.

**Reprieve:** means a delay allowed in the execution of a sentence, usually a death sentence, for a guilty person to allow him some time to apply for Presidential Pardon or some other legal remedy to prove his innocence or successful rehabilitation.

**Respite:** means reducing the quantum or degree of the punishment to a criminal in view of some special circumstances, like pregnancy, mental condition etc.

**Remission:** means changing the quantum of the punishment without changing its nature, for example reducing twenty year rigorous imprisonment to ten years.

These powers are applicable:

- in all cases where the punishment or sentence is by a court martial;
- 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;
- in all cases where the sentence is a sentence of death.



## Karnataka's anti-superstition law



### Issue

A controversial anti-superstition law in Karnataka, which was passed during the tenure of a previous government in a diluted form as the Karnataka Prevention and Eradication of Inhuman Evil Practices and Black Magic Act, 2017, and received the assent of the Governor, has been formally notified.

### Background

An expert panel from the Centre for the Study of Social Exclusion and Inclusive Policy of the National Law School of India University (NLSIU) first presented a draft Bill, outlawing over a dozen superstitious practices in 2013.

### Details

The model Bill held human dignity as its central tenet and sought eradication of irrational practices found in different communities. The first draft made practices like inflicting self-wounds and conversion through bribery illegal.

Some of the proposals opposed by religious leaders and political parties in the early draft were the ban on practices such as the carrying of priests in palanquins, worshipping the feet of religious leaders etc.



here was also political opposition for a proposed ban on the practice of Vaastu, astrology and palmistry. The inclusion of practices considered to have Vedic origins, such as Vaastu and astrology, among practices to be banned was opposed by various groups.

Practices such as barring menstruating women from entering houses of worship and their homes, coercing people to take part in fire-walks, and beating up people by declaring them evil, are among the irrational practices that have been banned under the 2017 law.

The law stipulates imprisonment for a term which shall not be less than one year but which may extend to seven years and with fine which shall not be less than five thousand rupees but which may extend to fifty thousand rupees, as punishment for violations.

The law is to be implemented by the state police with the appointment of vigilance officers under the law at police stations.

### Superstitions

Superstition is any belief or practice that is considered irrational or supernatural which arises from ignorance, a misunderstanding of science or causality, a positive belief in fate or magic, or fear of that which is unknown.

Notes



## No-fly list: The rules



### Issue

Four airlines in India, IndiGo, SpiceJet, Air India and GoAir, have banned stand-up comedian Kunal Kamra from taking their flights after he allegedly heckled television news anchor Arnab Goswami on an IndiGo flight.

### Background

In 2017, the government issued rules for preventing disruptive behaviour by air travellers and laid down guidelines for a no-fly list.

### Details

As per the rules, a complaint of unruly behaviour needs to be filed by the pilot-in-command, and this is to be probed by an internal committee to be set up by the airline.

During the period of pendency of the inquiry, the rules empower the concerned airline to impose a ban on the passenger. The committee is to decide the matter within 30 days, and also specify the ban duration.

The internal committee shall give the final decision in 30 days by giving the reasons in writing, the rules state, and the decision of the committee shall be binding on the airline concerned. In case the committee fails to take a decision in 30 days, the passenger will be free to fly.

Any aggrieved person, upon receipt of communication of a ban from the airline, may appeal within 60 days from the date of issue of the order, to an Appellate Committee constituted by the Ministry of Civil Aviation.



The Civil Aviation Requirements state that the decision of the appellate committee shall be final and that any further appeal shall lie in a High Court. If a person has been put on the no-fly list of domestic airlines, there is still a possibility that she can take international flights since the DGCA requirement applies only for Indian airlines.

### The Rules

The rules define three categories of unruly behaviour:

**Level 1** refers to behaviour that is verbally unruly, and calls for debarment up to three months.

**Level 2** indicates physical unruliness and can lead to the passenger being debarred from flying for up to six months.

**Level 3** indicates life-threatening behaviour for which the debarment would be for a minimum of two years.

### Grounds on imposing ban

A no-fly list essentially begins with a passenger causing verbal, physical or life-threatening unruliness. The DGCA has given an indicative list of actions that may be construed as unruly.

These include: consuming alcohol or drugs resulting in unruly behaviour, smoking in an aircraft, using threatening or abusive language towards a member of the crew or other passengers, intentionally interfering with the performance of the duties of a crew member etc.

Once the pilot-in-command submits his complaint, the airline is bound to refer the complaint to its internal committee.

### Need for no-fly list

The Civil Aviation Requirements issued by the Directorate General of Civil Aviation (DGCA) note that unruly behaviour on board aircraft has been declared an offence and is a punishable act. Even one unruly passenger can jeopardise safety on board.



## Time limit on advance bail violates liberty: Supreme Court



### Issue

A constitutional bench of the Supreme court has ruled that the protection of anticipatory or pre-arrest bail cannot be limited to any time frame or fixed period as denial of bail amounts to deprivation of the fundamental right to personal liberty in a free and democratic country.

### Background

Section 438 (anticipatory bail) of the Code of Criminal Procedure protects people from the ignominy of detention in jail for days on end and disgrace to their reputation.

### Details

A five-judge Bench acknowledged that anticipatory bail helps thwart influential powers from implicating their rivals in false cases.

The court said, the life or duration of an anticipatory bail order does not normally end at the time and stage when the accused is summoned by the court, or when charges are framed, but can continue till the end of the trial.

The questions referred to the Constitution Bench were twofold: whether the protection granted to a person under Section 438 should be limited to a fixed period till the accused surrenders in court, and whether the life of anticipatory bail should end when the accused is summoned by the court.



The court held that protection against arrest should inure in favour of the accused. Restricting the protection would prove unfavourable for the accused.

It said that, courts have to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation or tampering of evidence, including intimidating witnesses and fleeing justice. The court held that a plea for anticipatory bail can be filed even before the registration of FIR as long as there is reasonable basis for apprehension of arrest and clarity of facts.

The grant of protection should not be “blanket” but confined to specific offence or incident for which relief from arrest is sought. It is open for the police to move court for arrest of the accused if there is any violation of bail conditions, the ruling said.

Notes

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