

CURRENT AFFAIRS 2020

Polity

ForumIAS

→ **AYODHYA VERDICT**

D Context

The 5-judge bench of SC unanimously pronounced its verdict in the Ayodhya dispute, on 9th Nov, 2019

2) The dispute

- (i) The Ram Janmabhoomi - Babri Masjid Land Title dispute is a historical, political and socio-religious issue centred around a 2.77 acres of land in the city of Ayodhya, UP.
- (ii) The 16th century mosque - 'Babri masjid,' constructed in 1528 by Mir Baqi, commander in Babar's army was demolished in 1992, and initiated a movement for construction of Ram Mandir

→ (Refer the article for timeline of the case)

3) Allahabad HC

The 2.77 acres of the land will be partitioned into a three-way division between Suni Waqf Board, Nirmohi Akhara and 'Ram Lalla' represented by Hindu Maha Sabha

4) SC verdict, 9th Nov, 2019

- (i) SC order gave Hindus the possession of the disputed site
- (ii) SC directed the govt to allot a prominent and suitable 5 acre plot for Muslims to construct a mosque in Ayodhya
- (iii) Apex court asked the centre to formulate a scheme within 3 months and setup a trust to manage the property and construct a temple
- (iv) SC said the Allahabad HC three way bifurcation did not secure a lasting sense of peace and tranquility
- (v) SC has made it clear that its Ayodhya judgment will not act as a precedent to justify communal mobilizations against places of worship of other faiths, by referring to Places of worship (Special Provisions) Act of 1991

who was Babur?

Refer :

- mughal kingdom
- Gahadavas

What is the role of ASI?

What is adverse possession?

What is juristic person?

What is Places of worship (Special Provisions) Act?

5) Analysis

- 1) SC invoked an extra ordinary power uniquely granted under Article 142 of the Constitution, to ensure that justice is delivered to all
 - 2) The resolution of the issue may see the end of the politicisation of Ayodhya dispute
 - 3) Some experts are of the view that the court attempted to strike a balance and is a unifying verdict, but few others are of the view that judgment may alienate Muslim minorities
 - 4) Pratap Bhanu Mehta says Courts credibility is in serious doubt as marginalised groups may read this as a loss of faith in the fairness of Indian institutions
 - 5) Ashutosh Varshney says the judgment departs from judicial counter-majoritarianism
 - 6) Abhishek Singhvi (MP) says a unanimous Constitution Bench judgment on such an issue is an achievement and a lasting solution to this divisive issue is a binding judgement of the apex court
 - 7) Legal scholar Upendra Baxi called it a 'miracle of complete justice'
 - 8) Justice (Retd) Santosh Hegde said the 'judgement is in the larger interest of the nation and peace in society'
- 6) Secularism**
- 1) SC in the Keshavananda Bharati case held that secularism is a part of the basic structure of the constitution.
 - 2) Apex Court reaffirmed this again in SR Bommai case
 - 3) Scholar Upendra Baxi said there was 'no breach of constitutional secularism' in the Ayodhya judgment
 - 4) Indian secularism is based on the 'principled distance model'
 - 5) In Gandhiji's view, the state should be secular to promote 'sociability and fraternity among communities'

What is Article 142?

Make a note on
Indian secularism
and
Gandhian secularism

⇒ Fraternity

"Tolerance, respect for and acceptance of the equality of all religious faiths is a fundamental precept of fraternity" - Supreme Court

Article 51-A say that, it shall be the duty of every citizen of India to promote harmony and spirit of common brotherhood amongst all the people of India transcending religious, linguistic, regional or sectional diversities

ELECTORAL BONDS

1) CONTEXT

Recently newspapers reported that RBI and EC had expressed reservations about the Electoral Bonds scheme.

2) SCHEME

1) Electoral Bonds were introduced in 2017 when the Finance Act amended four different statutes, the RPA 1951, Companies Act 2013, RBI Act 1934 and Income Tax Act 1961.

- 2) It is a bearer instrument
- 3) It will be issued by a notified bank (SBI) for specified denominations
- 4) It can be purchased by any citizen of India or a body incorporated in India
- 5) It can be donated to a regd political party which can be encashed through that party's verified A/c w/o Pm in 15 days
- 6) There is no name attached to these bonds, so provides anonymity

3) OBJECTIVE

To clean up political funding

4) BENEFITS

- 1) Govt's claim that electoral bond represent clean money since it requires formal banking transactions.
- 2) The buyer has to approach the bank and can buy it through his/her KYC verified account
- 3) Political party has to deposit these into its designated account

5) CONCERNs

- 1) The voter does not know who is funding whom through electoral funding because of the secrecy and anonymity
- 2) Political parties are no longer required to reveal the donors name for contributions in the form of electoral bonds
- 3) Elimination of +5% cap on net profit means even loss making companies can make unlimited donations. Hence may lead to funding through shell companies
- 4) Shareholders may not be aware to which political party donations are gone
- 5) EC opposed it since any contribution received by a political party through electoral bonds has been taken out of the ambit of reporting under RPA.

- 6) RBI objected to allowing any entity other than the Central Bank to issue bearer bonds, which are currency-like instruments
- 7) Documents obtained through an RTI query also shows that Law Ministry objected to the criteria of 1% vote share in Lok Sabha or State Assembly elections in order to be eligible for the scheme

8) LAW COMMISSION

Law Commission in its 255th report observed that opacity in political funding results in 'lobbying and capture' of the govt by big donors

9) SUGGESTIONS

Former CEC Sy Quraishi suggested that National Electoral Fund to which all donors will contribute. The funds will be allocated to political parties in proportion to the votes they get

RTI

1) Context

On October 25th, Centre Govt notified rules to implement the amendments to RTI Act 2005

2) Objectives

- 1) To enable citizens to secure access to information under the control of public authorities
- 2) To promote transparency and accountability in the working of public authorities

3) Key provisions

- 1) Every public authority has to provide to the citizen right to information within a prescribed time limit
- 2) It provides for suo-motu disclosure
- 3) Establish PIO
- 4) Information which can't be denied to the Parliament or State legislature cannot be denied to the citizen
- 5) There are certain category of info. which are exempted

4)

Positives

- 1) Over 70 lakh people apply for information every year
- 2) It helped to bring transparency and accountability in the governance
- 3) It is an important tool to fight corruption

Challenges

- 1) Murder of RTI activists
- 2) Opposition from public servants
- 3) Pendency
- 4) Vacancies
- 5) No suo-motu declaration
- 6) No proper imposition of fines
- 7) Officers giving incomplete and vague information
- 8) Political parties not under RTI
- 9) Lack of awareness

What is article 19(c) of the Constitution?

What is OSA?

What is the role of NGOs in the enactment of RTI?

What is India's rank in Transparency International's Corruption Perception Index?

5) Reason for amendments - Govt's view

- 1) Presently the Act equates the salaries, allowances and other terms and conditions of service of CIC and ICs to that of CEC and EC, which are in turn equal to a judge of SC.
- 2) Therefore CIC, IC shall CICs become equivalent to a judge

Is CIC a constitutional body?

6) Amendments and new rules

- 1) Tenure - reduced to 3 years
- 2) Salaries - Fixed at Rs 2.50 lakh for chief info. Commissioner and Rs 2.25 lakh for state and central ICs
- 3) Age limit - Max age limit remains at 65
- 4) More power to centre - Central govt will have the power to relax the provisions of any of these rules about any class or category of persons in the future

What about salaries of CEC and judges?

5) Concerns

- 1) goes against the spirit of RTI
- 2) Dilute the independence and authority of CIC & IC
- 3) Centres control over state IC is against federalism
- 4) CIC & ICs to be a caged parrot?

Why SC called CBI a caged parrot?

6) Imp. Judgment

- 1) S.P. Gupta v. UOI Case (1981) SC observed that the concept of open govt is the direct emanation from the right to know which is implicit in the right to free speech and expression u/a 19 (1) (a) therefore disclosure of information in regard to the functioning of Govt must be the rule and secrecy an exception justified only where the strictest requirement of public interest so demands.

What is three judges case?

7) Second ARC recommendations

- 1) DSA, 1923 should be repealed and substituted by a chapter in the National Security Act
- 2) Public Records offices should be established as an independent authority
- 3) Single window agency should be setup in each district

8) other suggestions

- 1) Operationalise Lokpal and Lokayukta , the whistle-blower's Act and Grievance Redress Law

→ **SABARIMALA VERDICT**

D CONTEXT

Supreme Court has referred the Sabarimala case to a larger bench of 7 judges

2) SC VERDICT

- i) SC felt that the Indian Young Lawyers Association case 2018: judgment lifting age restrictions on the entry of women into the Sabarimala Shrine may impact on the affairs other religions too, and therefore it requires a more detailed examination.
- ii) The court made a reference to petitions seeking entry of women into mosques and into Parsi fire temple

3) CONSTITUTION

- i) Article 25, § 26
- ii) Article 14, 15, 17
- iii) Indian constitution guarantees religious freedom to its citizens
- iv) The Preamble refers to India as a secular state

4) ESSENTIAL RELIGIOUS PRACTICES TEST

D SC in Shriram Mata case, 1954 invented this principle. Religion came to be defined and interpreted by that which was deemed 'essential' or 'integral' to the practice of a particular faith

(Refer the Article given)

5) CONSTITUTIONAL MORALITY

SC said that constitutional morality has to be the corner stone of public life and it must prevail above the enforced notions of personal, religious or customary morality. Court recognised that it has not been defined in the constitution, and hence there is a need to delineate the contours of that expression, or it becomes subjective.

Where is Sabarimala temple?

Where is Periyar Tiger reserve?

Features of Indian Secularism

SR Bommai case



CITIZENSHIP AMENDMENT ACT 2019

D) QUOTE

"Citizenship is the right to have rights"

- Hannah Arendt

E) CONTEXT

- The Parliament passes the Citizenship Amendment Bill 2019
- Protests erupt across India against CAA, 2019

F) THE ISSUE

Specified group of illegal migrants are given citizenship

G) AMENDMENTS

- Any person belonging to Hindu, Sikh, Buddhist, Jain, Parsi or Christian community from Afghanistan, Bangladesh, Pakistan who entered into India on or before 31st Dec, 2014 and who has been exempted by the central govt under Passport Act, 1920 or Foreigners Act 1946 shall not be treated as illegal migrant
- For the above group of illegal migrants the citizenship by naturalisation has been relaxed to 6 years
- The provisions are not applicable to 'sixth schedule areas' and the areas covered under Inner Line Permit (ILP) system
- OCI registration will be cancelled in case of violation of any law notified by the centre govt

H) ARGUMENTS FOR

- To give shelter and protection to persecuted minorities in neighbouring countries
- To address the concerns of Chakmas and Nagas who are living in India for more than 50 decades
- It also protects the tribal areas of Assam, Meghalaya, Tripura and Mizoram which are under 6th schedule of the Constitution and areas under ILP

Does Constitution or CA define the term "citizen"?

How is citizenship acquired in India?

Who is a refugee, illegal migrant?

What is Sixth Schedule?

What is ILP?

Who is an OCI?

Who are Chakmas and Nagas

⑥ ARGUMENTS AGAINST

- 1) The act discriminates on religious grounds, & excludes Muslims, Jews and ignores atheists
- 2) It does not include other persecuted minorities from these three countries namely Ahmadis, Hazaras etc.
- 3) It also excludes Rohingyas of Myanmar and Tamil refugees from Sri Lanka
- 4) Faizan Mustafa argues that CAA put even non-muslims under severe hardship as those who were till now asserting that they are Indian citizens will now have to prove that they came from these three countries
- 5) CAA is violative of the Constitution and "basic structure doctrine"
- 6) Indian citizenship, unlike Pakistan is not based on religion
- 7) It goes against Assam Accord and NRC of Assam
- 8) The act may bring permanent demographic changes in Assam, Tripura, West Bengal
- 9) Students and universities across the country broke into protests
- 10) Communal division and social polarisation
- 11) The ground for cancellation of OCI is very wide and apprehensions about selective cancellation of citizenship

What is Article 14?

Who are Rohingyas?

What is basic structure doctrine?

What is Assam Accord?

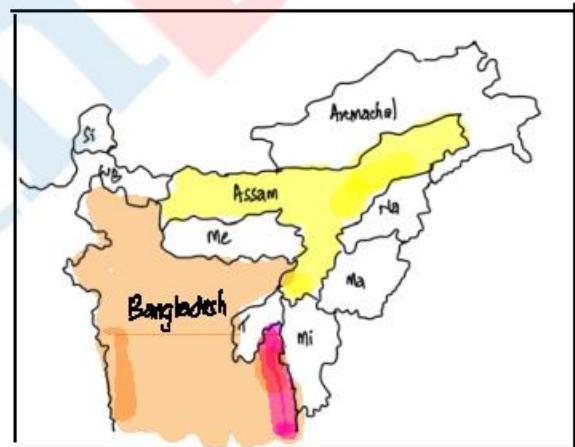
→ NATIONAL REGISTER OF CITIZENS

1) CONTEXT

- 1) As the CAB was passed by the Parliament, violent protests broke out in Assam
- 2) More than 19 lakh people in Assam were excluded from the final list of NRC
- 3) NRC
 - NRC is a register containing names of Indian citizens which was prepared for the first time in 1951
 - It is being updated for Assam to find out the illegal immigrants

2) BACKGROUND

- 1) The root of the problem is illegal immigration from Bangladesh
- 2) After years of mass protest and violence, the Assam Peace Accord was signed between the Rajiv Gandhi govt, Assam Govt and AASU in 1985 to deport illegal migrants and to stop illegal immigration from Bangladesh
- 3) Section 6A of citizenship Act was added through an amendment in 1986 to accommodate the Assam Accord
- 4) The cut-off date for citizenship kept as 25 March 1971 (Bangladesh Liberation War). However the NRC was not updated
- 5) In 2009, based on a petition, SC directed the state to complete the NRC updation



3) THE PROCESS

A person is eligible to enroll in the NRC updation, if she/he can prove that her/his ancestors were living in Assam or were citizens of India before March 24, 1971. They have to provide supporting documents to prove their case.

5) CONCERNs

- 1) The final NRC excluded 1.9 million people
- 2) The verification was a tedious process and many genuine people are not included
- 3) The process will be extended, with claims and contestations
- 4) Lack of proper documentation system in the country
- 5) Concerns about the basic rights of the people who have become stateless
- 6) No deportation agreement with Bangladesh
- 7) Bangladesh has consistently denied illegal immigration of its citizens
- 8) The citizenship (Amendment) Act, grants citizenship to minorities from Bangladesh, Pakistan, Afghanistan who entered even after the cut-off date of the NRC
- 9) The potential of this issue to lead to communal tensions in the region

→ ENOUNTER KILLING

1) QUOTE

'Justice can never be instant and it loses its character as justice if it becomes revenge'

CJI - S. Bobde

2) CONTEXT

Following the nationwide outrage over the gangrape and murder of a women in Hyderabad, the four accused were killed in an encounter by the state police.

3) ISSUES

- 1) Encounter killings are extra-judicial killings
- 2) It goes against Article 21 - due process of law
- 3) Delays in the criminal justice system
- 4) In Indian case, everyone is presumed innocent till proven guilty through a fair trial
- 5) People supporting and celebrating encounters
- 6) These killings take place with the consent of the highest authority

4) SC VIEW

In Om Prakash & Ors Vs state of Jharkhand & anr (2012) case observed that 'such killings are not recognised as legal by our criminal justice administration system. They amount to state terrorism'

In PUCL vs state of Maharashtra (2014) SC had issued 16 point guideline for investigating police encounters

5) NEED OF THE HOUR

- 1) fast track courts
- 2) Fill vacancies in judiciary
- 3) Training to Police
- 4) Follow SC guidelines

→ Public Interest Litigation

1) Context

- 1) According to the India Justice Report 2019, Maharashtra topped list of states delivering justice followed by Kerala and Tamil Nadu
- 2) Jharkhand, Bihar and UP are at the bottom
- 3) India's per capita expenditure on free legal aid is just 75 paise per annum

2) PIL

- 1) PIL is a legal innovation to secure access to justice by poor and marginalised. It relaxes the strict rules of 'locus standi'.
- 2) Under this courts can take suo-motu notice of public events and transform them to litigation

3) Benefits

- 1) inexpensive and speedy justice to common man
- 2) increased awareness among the people about their own rights
- 3) increased scope of the fundamental rights
- 4) It has forced the executive and legislature to perform their functions
- 5) Judiciary has attempted to bring reforms. For Eg environmental protection, electoral reforms etc

4) Issues

- 1) SC said PIL has become an 'industry of vested interests' rather than a powerful tool to address the causes of marginalised and oppressed
- 2) Data shows large no. of PILs in SC are filed by Delhi, Punjab and Haryana
- 3) Not poor but wealthy litigants are using PIL mechanism
- 4) Became a forum of partisan contestation
- 5) Courts are also using PIL for popular legitimacy
- 6) Judicial Overreach

Who introduced the concept of PIL?

What is Art 50?

What is separation of powers

What is Judicial activism?

What is Art 142?



PERSONAL DATA PROTECTION BILL, 2019

D) CONTEXT

The Data Protection Bill has been introduced in the Lok Sabha and has been sent to the Joint Parliamentary Committee for further deliberations.

2) DATA

Data is the large collection of informations that is stored in a computer or a network.

3) NEED OF PDP BILL

- 1) Data is the new oil
- 2) Data monopoly and data colonisation
- 3) Invasion of privacy
- 4) Manipulation of data
- 5) Fourth industrial revolution
- 6) Growth of digital economy, e-commerce
- 7) Social media
- 8) Cyber security
- 9) National security
- 10) No specific law to protect personal data

4) KEY PROVISIONS

- 1) Applicability - The Bill governs data processing by govt, companies and foreign companies dealing with personal data of individuals in India
- 2) Categories - The Bill categorises certain personal data as sensitive personal data, and critical Personal Data (CPD)
- 3) Data localisation - SPD can be processed outside India with the explicit consent of the individual. Whereas CPD must be stored and handled in India
- 4) Obligations of Data fiduciary - Personal data can be processed only for specific, clear and lawful purpose with the consent of the individual. They should undertake transparency and accountability measures such as implementing security safeguards and grievance redressal.

- Govt may direct data fiduciaries to provide non-personal data and anonymised personal data for better targeting of services
- 5) Rights of data principal
- Rights of correction, Right to data portability and right to be forgotten
- 6) Data processing
- Allows data processing only with the consent of fiduciaries. However exemptions include (i) if required by the state for providing benefits to the individual (ii) legal proceedings (iii) to respond to medical emergency
- 7) Social media intermediaries
- Those which have users above a notified threshold and whose actions can impact electoral democracy or public order have certain obligations including a voluntary user verification
- 8) Exemptions
- Central Govt can exempt any of its agencies from the provisions of the act
- 9) Data Protection Authority
- an independent regulator
- 10) offences
- penalties for violations.

ADVANTAGES

- 1) Data localisation
- 2) Enforce data sovereignty
- 3) Balance between digital economy and privacy
- 4) Check cyber crimes and protect national security
- 5) Check on social media
- 6) Prevent 'fake news'
- 7) Better accountability on Big tech companies

CONCERNs

- 1) Justice BN Srikrishna said PDP Bill can turn India into "Orwellian State"
- 2) Under exemptions Govt can at anytime access data on the grounds of sovereignty or public order

- 3) Data localisation will affect those services that cannot offset the financial and logistical costs of localisation
 - 4) Lack of infrastructure for data localisation and risk of domestic threats
 - 5) Protectionist regime suppress the values of a globalised, competitive internet market place where costs and speeds determine information flows rather than nationalist borders
 - 6) Implementation will be challenging as it applies to anyone processing personal data
 - 7) Data protection requires prudence from consumers
 - 8) DPA comprises of all govt nominees hence it affects independence of the regulator
- 7) BEST PRACTICES
- EU's data protection Law - General Data Protection Regulations (GDPR)

→ **RAILWAYS REFORM**

1) CONTEXT

Cabinet recently cleared a proposal to reform the Railway management structure

2) CURRENT SCENARIO

- 1) Indian Railways has more than 70,000 km network
- 2) It carries over 8 billion passengers and a billion tonnes of freight every year
- 3) It is one of the biggest employers with over 1.4 million employees
- 4) Indian Railways consists of officers recruited through both Civil Service Examination and Indian Engineering Service Examination

3) ISSUES

a) Departmentalism

- a) Inter-departmental Rivalries
- b) Departments working in silos
- c) Inefficiency and delays in decision making

b) High operating ratio of about 120%.

- 3) Rail accidents
- 4) Cross subsidisation
- 5) Rising competition from other modes of transport
- 6) Populism
- 7) Building technological capability

4) REFORM

- 1) Reduction in the number of members in the Railway Board
- 2) Merging all the 8 services into a single Indian Railways Management Service

	<u>Benefit</u>	<u>Challenge</u>
1) End departmentalism		1) Protest by civil servants as they claim that merger is unconstitutional

Q) RECOMMENDATIONS

Bibek Debroy Committee (2015), Sam Pitroda (2012) etc recommended merging of services to end departmentalism



→ **RIGHT TO PROTEST**

1) Dissent is the safety valve of democracy. If dissent is not allowed, then the pressure cooker may burst.

2) CONTEXT Justice D.Y. Chandrachud

There is a nation wide protests against CAA - NRC

3) CONSTITUTION

Article 19

4) SIGNIFICANCE

- 1) Importance of free speech and expression
- 2) Right to protest is implicit in Article 19
 - a) Right to free speech and expression
 - b) Right to associate
 - c) Right to peaceful assembly
- 3) Allows active citizenship
- 4) Check on abuse of power
- 5) Political participation not only during but between elections
- 6) Peaceful protests are more inclusive process
- 7) Protests by students and women
- 8) Peaceful protests and transformative constitution
- 9) Electoral Federalism
- 10) Leaderless protests

5) CHALLENGES

- 1) Imposition of section 144 of CrPC
- 2) internet shut down
- 3) destruction of public property and rioting in some places
- 4) "democratic regression" - India drop 10 ranks in 'Democracy Index'
- 5) Image of India
- 6) Social polarisation

6) WAY FORWARD

- 1) Govt assurance
- 2) Reaching out to the people
- 3) Informed debates
- 4) Prevent violence and destruction of public property

→ JUDICIARY

1) Context

To years of Indian Judiciary

2) Judiciary - India's pride

- 1) Judiciary has been the nation's moral conscience
- 2) Social transformations
- 3) Expansion of fundamental rights of citizens
- 4) Judicial innovations
- 5) Mediating centre-state conflicts
- 6) Providing justice to rich and poor alike
- 7) Several decisions of saving democracy
- 8) taking the role of counter-majoritarianism

3) Challenges

- 1) Justice delivery is slow
- 2) appointment of judges
- 3) disciplinary mechanisms rarely work
- 4) hierarchy rather than merit
- 5) not representative
- 6) Pendency of cases
- 7) huge vacancies
- 8) Inaccessibility
- 9) Corruption
- 10) judicial overreach

4) Suggestions by Justice (Retd) Ruma Pal and Argya Ganguly

- 1) Reduce hierarchy
- 2) Appoint more district judges to NCs
- 3) Make appointment on merit
- 4) Appoint more women
- 5) Create disciplinary mechanisms
- 6) Establish a permanent Constitution Division of SC
- 7) Create a mission to cut judicial delays

→ **Sedition**

1) Context

- 1) Sedition charges against a parent and teacher of a private school in Bidar, Karnataka about a play performed by primary school children
- 2) Sedition charges against students and celebrities

2) What is sedition

- (i) Sedition refers to the conduct or speech inciting people to rebel against the authority of a state
- (ii) Section 124-A of IPC deals with sedition

3) Background

- (i) Sedition law was brought in by British in 1870
- (ii) Gandhiji and Tilak were sent to prison on charges of corruption
- (iii) Sedition was not included in the Constitution as a ground of restriction on freedom of speech and expression (1949-1962)

4) Imp Judgements

- (i) Ram Nandan vs State of UP, 1958, Allahabad HC ruled that sedition was unconstitutional
- (ii) Kedarnath vs State of Bihar 1962, SC ruled that sedition charges can be imposed only if it involves intention or tendency to create disorder, or disturbance of law and order, or incitement to violence
The mere criticism of the govt through speeches or comments on the administration however vigorous or ill-informed did not constitute sedition
- (iii) Common Cause vs UOI, 2016, SC upheld the constitutionality of section 124-A
SC emphasised that comments however strongly worded expressing disapprobation of actions of the govt and which shun violence are not sedition

5) Arguments

For	Against
<ul style="list-style-type: none"> (i) Anti-Indian slogans and speeches needs to be curbed (ii) To prevent radicalisation (iii) To prevent disruption of public order (iv) ensure national security 	<ul style="list-style-type: none"> (i) a colonial legacy that has no place in a democracy (ii) misused by party in power (iii) used to curb any kind of criticism (iv) curbing freedom of speech (v) No clear definition of what is sedition (vi) low conviction rate as most of the cases are declared as innocent

6) Law Commission's consultation on Sedition 2018

- (i) It called for a reconsideration of the sedition section in the IPC
- (ii) It said that dissent and criticism of the govt are essential ingredients of a robust public debate in a vibrant democracy

70 YEARS OF CONSTITUTION

QUOTE

"Constitution is not merely a charter of rights but is also a great vehicle of social empowerment"

Dr. B R Ambedkar

"If I were to sum up the essence of the constitution in an easy language, it would be dignity for Indians and unity for India"

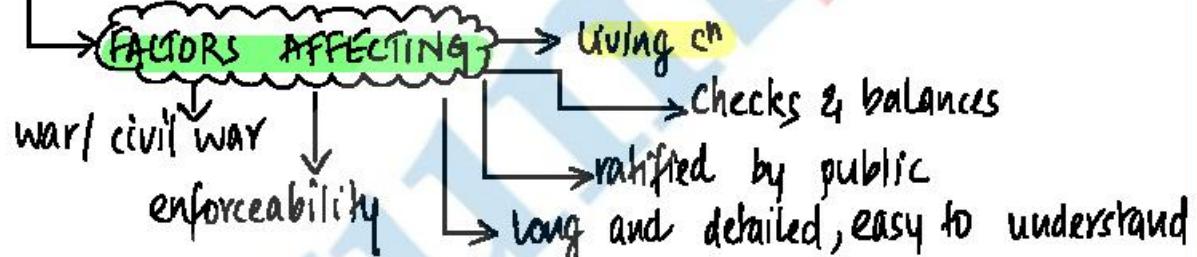
President Ram Nath Kovind

CONTEXT

Constitution day - 70th anniversary 26 NOV 2019

LIFE SPAN - Study "The lifespan of written constitutions"

→ 17 years - The average lifespan of constitution since 1789



→ concentration of power - 'How Democracies Die'

→ lack of strong institutions - 'Why Nations Fail'

PHASES OF CONSTITUTIONAL INTERPRETATION

1) Textual approach - SC focused on plain meaning of the words in the constitution - Eg. A.K. Gopalan Case

2) Structural approach - SC tests whether the law is in sync with the overall structure of the constitution
Eg. 'Doctrine of Basic structure' - Keshvananda Bharati Case

3) Eccentricism - A panel of 2/3 judges adopt inconsistent

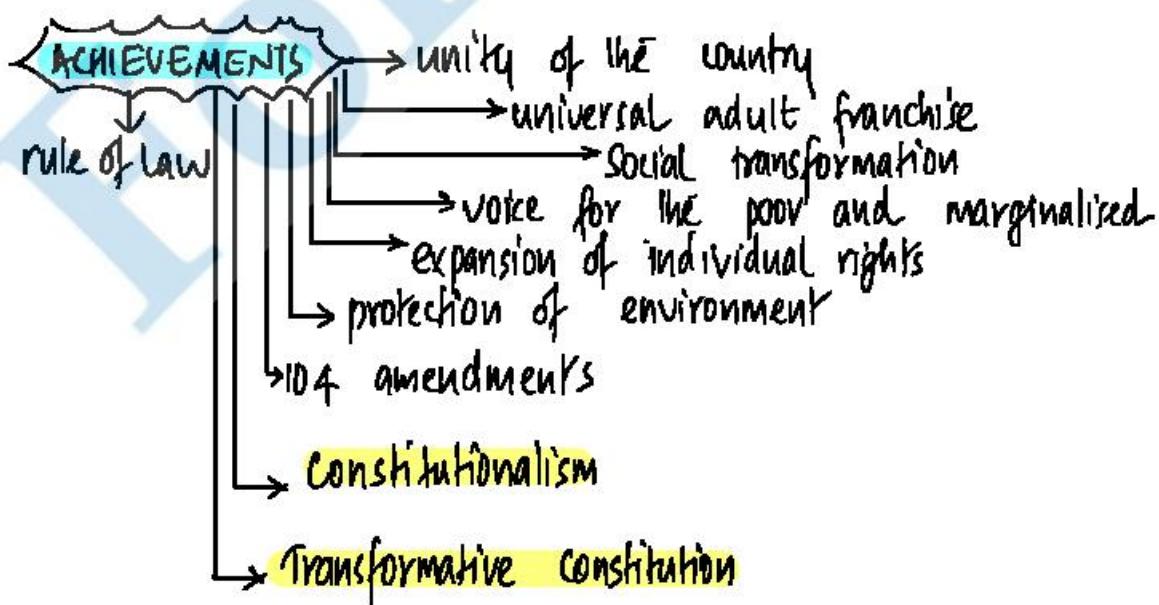
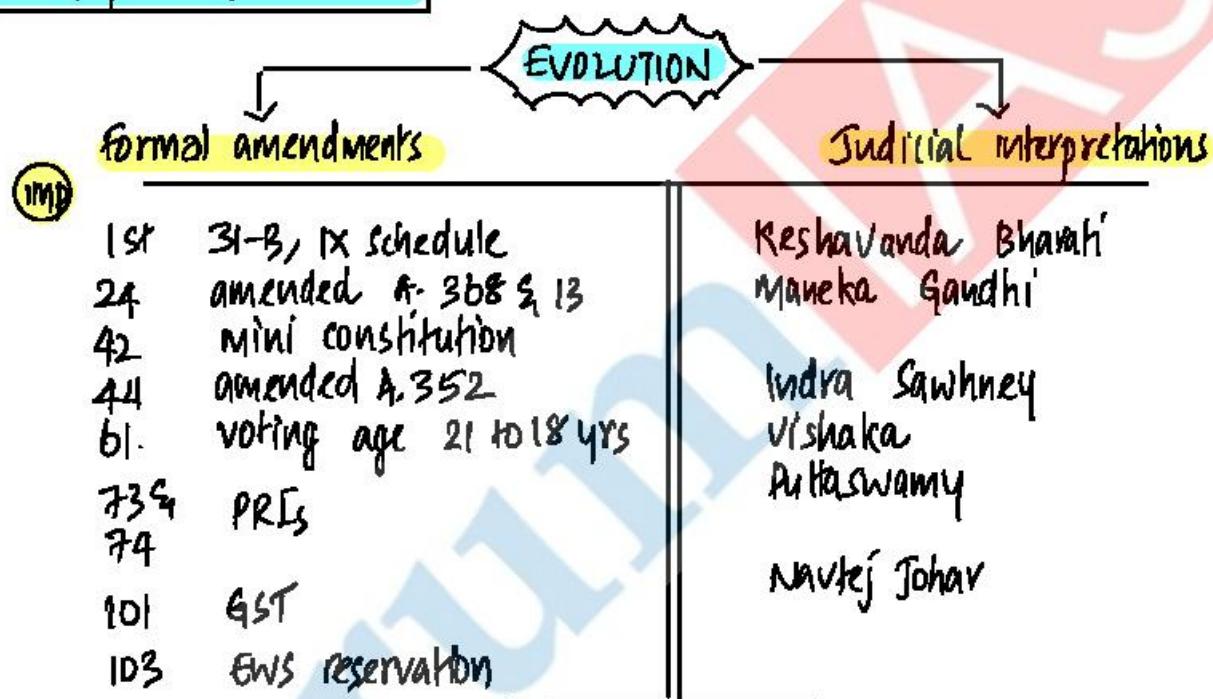
interpretive approaches based on their conception of courts' role and arrive at conclusions that were in tension with one another

Purpose

- Courts started considering the purpose for which the constitution has been enacted

Eg. Navtej Singh Johar Case

LIVING CONSTITUTION



CHALLENGES

- Strong govt - Eg 42AA
- attack on judicial independence

→ Challenges to the ideals and aspirations of the constitution
 (key words in Preamble)
 (ie)

Sovereignty, Socialist aims, secular character
 Democracy, and Justice, Liberty, Equality,
 Fraternity, unity of the country

CRITICISMS

- Bag of borrowings
- too long, too rigid, too prolix
- Legalistic and complicated language

WHAT MAKES CONSTITUTION EFFECTIVE?

mode of promulgation

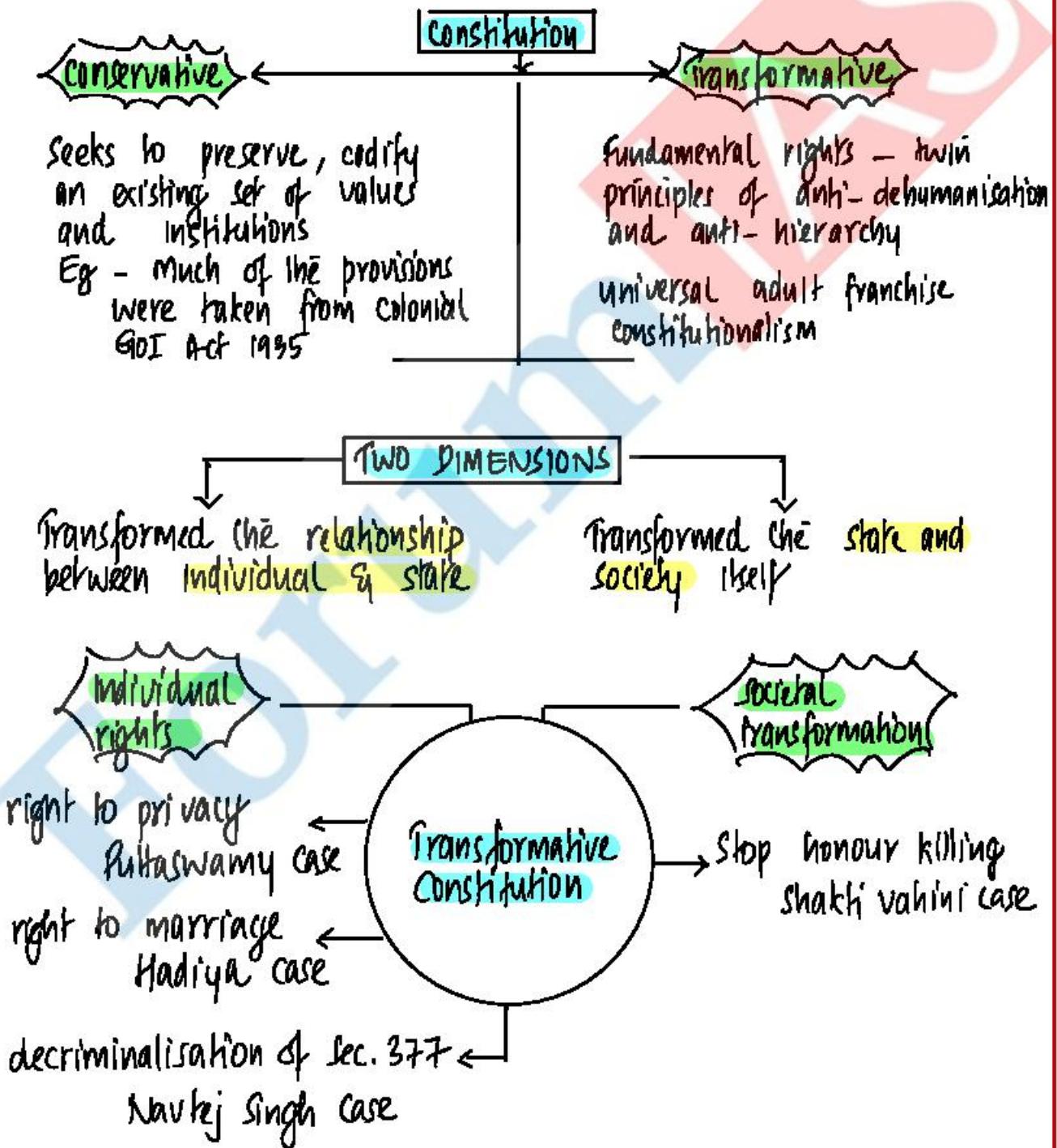
Balanced institutional design

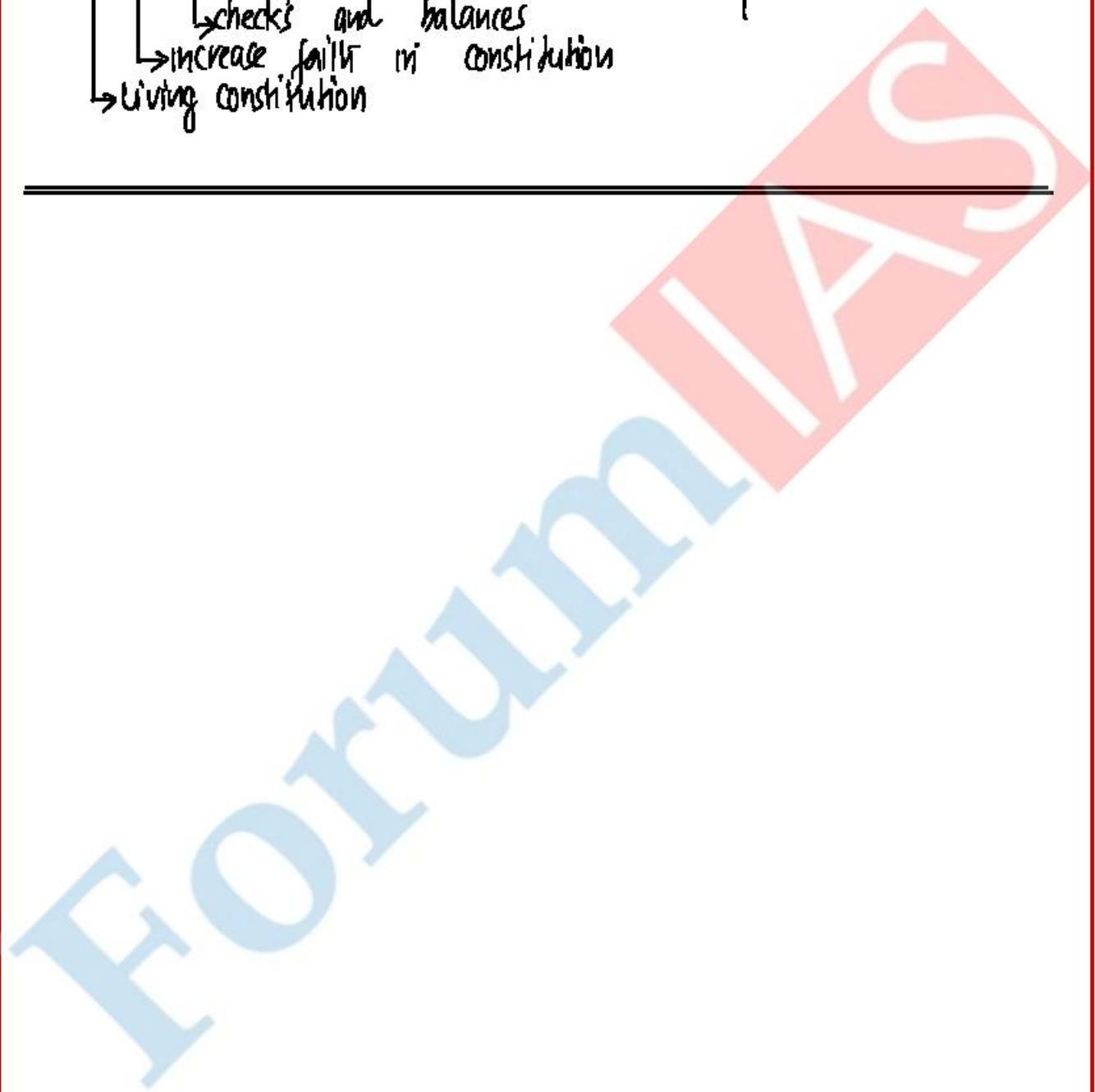
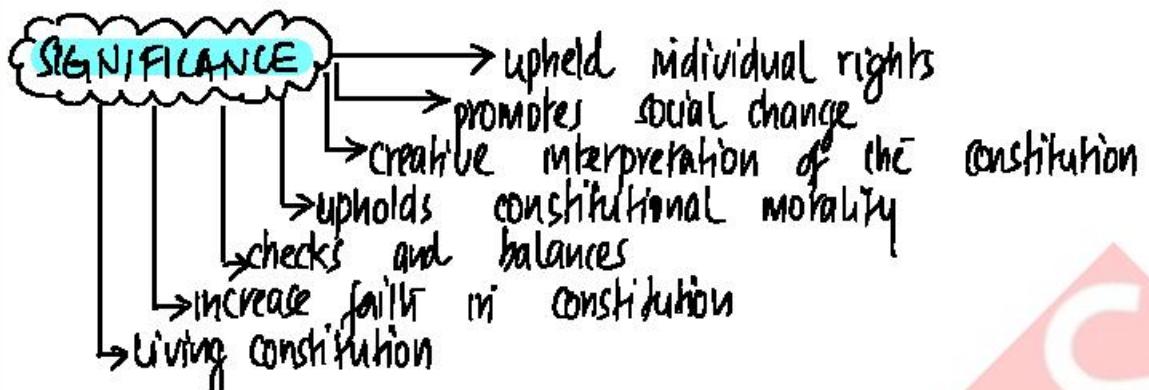
Substantive provisions of the constitution

TRANSFORMATIVE CONSTITUTION

QUOTE "Indian Constitution is a great social document, almost revolutionary in its aim of transforming a medieval hierarchical society into a modern egalitarian democracy"
Supreme Court

CONTEXT SC judgements in the recent past





FEDERALISM DURING COVID-19**QUOTE**

"the fight against covid-19 is a fine example of cooperative federalism in which the centre and states are working together to contain the spread of virus"

CONTEXT**PM Modi**

Covid-19 pandemic has tested the letter and spirit of cooperative Federalism

COOPERATIVE FEDERALISM

Administrative cooperation between centre and states and it is based on the principle of interdependence

EVOLUTION OF FEDERALISM IN INDIA

Phase 1	Phase 2	Phase 3	Phase 4
Centre powerful States weak	Strong state relatively weak centre	Strong centre relatively weak states	Strong centre range of strong politically vocal states

DURING COVID - LOCKDOWN**POSITIVES**

- 1) **Consultative - Consensual approach** - PM had a series of interactions with CMs
 - 2) **Administrative Cooperation** - Centre and state cooperated on implementing lockdown under Disaster Management Act and Epidemic Diseases Act
- Financial**
- Expanded the borrowing limit of the states
 - Centre's support through Atma-nirbhar Bharat Abhiyan

- ② **Legislation** 'Public health and sanitation' is under state list.
 states passed ordinances, rules to enforce the guidelines.
 - centre also provided testing kits

ISSUES

Financial Issues

- inadequate financial resources with states
- decline in GST collections due to lockdown
- centre not releasing GST compensation amount to states
- centre imposed pan India ban on sale of alcohol
- Decreased tax collections from sale of petrol
- Denial of state disaster funds from the benefit of CSR contributions
- Suspension of MPLAD Scheme

Administrative Issues

- Guidelines issued without drawing up a 'National Plan' in consultation with state Govts' mandated under DM Act 2005
- top down approach by the centre
- unilateral classification of zones by the centre
- sealing of inter state borders and frequent change in orders
- Lack of centre-state and state to state coordination regarding migrants issue

- ③ Not using constitutional mechanisms like Inter-state council

BEST MODEL

- Decentralised model of Kerala

RESPONSE OF OTHER FEDERAL COUNTRIES

- Australia** - Formed National cabinet for national coordination

- USA** - Dual federal system with rigid rules on distribution of powers led to 'inconsistent and uncoordinated response by the govt's.

AGRICULTURAL BILLS**QUOTE**

the agricultural bills will empower farmers and have a colossal impact on the future of agriculture in the country

- Rajiv Kumar - NITI Aayog Vice chairman

'Leaving farmers to the tyranny of the markets would be akin to putting the sheep before the wolf'

- Devinder Sharma - agriculture policy expert

An assured price and an assured market are the two planks of a famine - avoidance strategy

- Dr. M.S. Swaminathan

CONTEXT

Parliament passed Farmers Produce Trade and Commerce (Promotion and facilitation) Bill 2020, the farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Bill 2020 and the Essential Commodities (Amendment) Bill 2020

EXAMPLES FROM NEWSPAPERS

- 1) The case of Shingara Singh farmer from Punjab
- 2) PepsiCo vs small farmers related to contract farming

CONCEPTS

- 1) **APMC** : Agricultural Produce Market Committee enacted by State govt. Under this the geographical area is divided and each one is declared as a market area which is managed by the Market Committee. The act provides that the sale of the notified agricultural commodities can be conducted only under the aegis of the APMC, through its licensed commission agents (Cartalas)

- 2) **CONTRACT FARMING** : A system wherein a producer agrees to sell a pre agreed quantity/quality/variety of a produce at a pre agreed price and time to a buyer

3) **ESSENTIAL COMMODITIES ACT, 1955.** This was enacted to empower the Central Govt to maintain or increase supplies of any essential commodities or make it available at fair prices. Govt can regulate or prohibit the production, supply distribution and sale of that commodities.

PRESENT PROBLEMS

D) Issues arising out of APMC, contract farming and ECA

APMC

- multiplicity of fees
- cascading effect and food inflation
- exploitation of farmers by middlemen
- monopoly and cartelisation

Contract farming

- No comprehensive law
- marketing fees and levies paid to APMC
- PepsiCo vs farmers case
- Corporatisation of agriculture

ECA

- market distortions
- low investment in storage infrastructure
- affecting food processing sector
- weakens the agriculture value chain

2) OTHER ISSUES

- Declining agricultural growth rate (mention data)
- small and marginal farmers
- increased dependence on this sector
- low investment
- increasing input cost
- monsoon dependence
- 'technology fatigue'
- feminisation of agriculture
- sustainability crisis
- policy related issues - MSP & procurement issues
- low investment in agro-processing sector
- farming becoming un-remunerative
- increasing indebtedness of farmers

3. Acts

1) The Farmers Produce Trade and commerce (Promotion and Facilitation) Act 2020

- i) It provides for freedom of choice to the farmer or trader to conduct trade and commerce
- ii) Any trader having a PAN is allowed to buy directly from the farmer
- iii) It allows intra-state and inter-state trade
- iv) It proposes an electronic trading and transaction platform
- v) Market fee abolished in an "outside trade area"

2) The Farmers (Empowerment and Protection) Agreement on Price Assurance and farm Services Act 2020

- i) farmers can sign sale contracts with processors, aggregators, wholesalers, large retailers, exporters etc at mutually agreed crop prices
- ii) The price of farming produce and the process of price determination should be mentioned in the agreement
- iii) Buyer pays the market price if it is higher than the contract rate
- iv) It provides for a conciliation board as well as conciliation process for settlement of disputes

3) The Essential commodities (Amendment) Act 2020

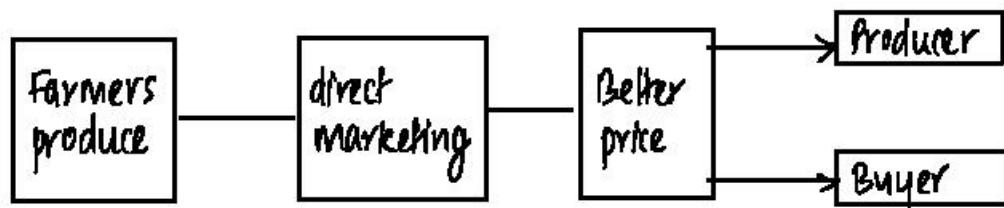
- i) It takes cereals, pulses, oil seeds, edible oils, onion, potatoes etc out of the list of essential commodities. It thus removes stockholding limits on these items except under 'extraordinary' circumstances such as war, famine, extra-ordinary price rise etc

BENEFITS

Free Trade

- i) farmers free to choose markets and free to sell their produce

3)



- 4) Mandis forced to become competitive
- 5) Barrier free inter and intra-state trade
- 6) One India One Agricultural market

Contract Farming

- 1) Transfer the risk of market unpredictability from farmers to buyers
- 2) Farmers getting access to modern technology and better inputs
- 3) Small and marginal farmers benefit by aggregation
- 4) Eliminate intermediaries
- 5) Effective dispute resolution

ECA Amendment

- 1) Pvt investment in warehouses, cold storage
- 2) Improvements in supply chain and price stability
- 3) Reduce food wastage
- 4) Growth of food processing sector

PARADIGM SHIFT

- 1) Farmer from price taker to price maker
- 2) Farmer from producer to producer-trader
- 3) From non competitive system to competitive system
- 4) From deficit management to surplus management

CONCERNs

WHO IS PROTESTING?

- 1) Farmers
- 2) Commission agents
- 3) State Govts
- 4) Political parties

CONCERNs

{ Explained in class }

- 1) farmers fear wilting away of APMC & MSP
- 2) farmer want legal protection for MSP
- 3) Big Corporates v/s small farmers
- 4) fiscal deficit of pub. companies
- 5) fear of Cartelisation
- 6) formation of monopolies or duopolies
- 7) Crowding out competition
- 8) co-opting with aggregators
- 9) NO dis-intermediation but re-intermediation
- 10) Policy ambiguities
- 11) Undermining of food security
- 12) Against the spirit of cooperative federalism
- 13) Hasty passage of farm bills and no examination by select committee of the Parliament

REPORTS

1) NITI Ayog - 'Strategy for New India @ 75' - convert farmers to 'agripreneurs' by expanding e-NAM and replacing APMC Act

2) Shanta Kumar Committee
 - Revamp MSP
 - allow pub procurement and storage

SUGGESTIONS

- 1) Economic Survey 2019-20 - repeal ECA, 1955
- 2) M.S. Swaminathan Commission - National Commission on Farmers to improve the living standards of farmers and upliftment of farm sector

BEST PRACTICESAMUL model

6TH SCHEDULE STATUS

CONTEXT Arunachal Pradesh assembly, political parties & community based groups push for 6th schedule status

PRESENT STATUS It enjoys few special powers u/t A 371 (H) and is protected under ILP system

REASONS

- 1) Demand for special rights for indigenous communities
- 2) It is a frontier state bordering Bhutan, China, Myanmar
- 3) Demand for MAC - Mon Autonomous council
PAL - Paltkai Autonomous council

6TH SCHEDULE

- 1) It seeks to safeguard the rights of tribal population through the formation of autonomous district councils
- 2) The tribal areas of Assam, Tripura, Meghalaya and Nagaland are under the 6th schedule
- 3) They enjoy legislative, executive, judicial and financial powers

ISSUES

- 1) Varying degree of autonomy to the District councils
- 2) No village level elected body
- 3) Weak financial devolution
- 4) Regular elections are not conducted
- 5) Issues of corruption

125th AMENDMENT BILL

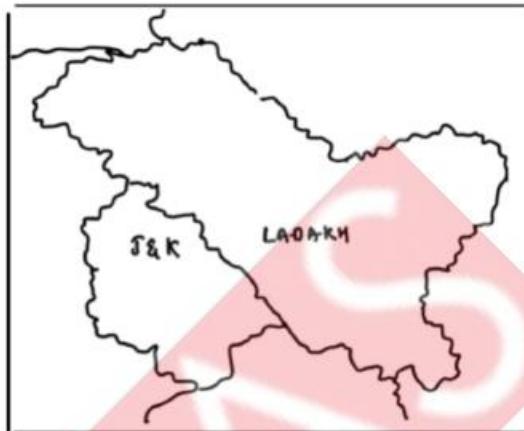
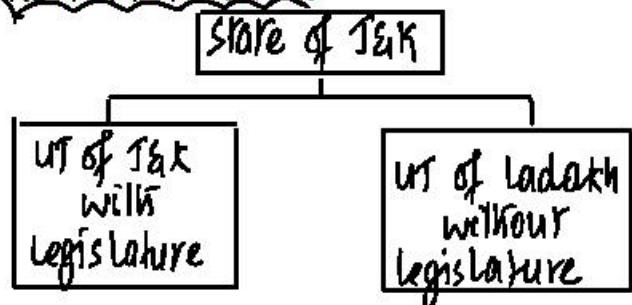
- 1) To bridge the gap between mainland and north east
- 2) To provide for village and Municipal councils
- 3) Recommendations by Finance Commission for devolution
- 4) SEC to conduct elections

COMMITTEE

Xaxa Committee, 2014

J&K REORGANISATION ACT 2019

CONTEXT The Union Govt removed the special status given to J&K u/a 370 and reorganised the state

REORGANISATION**CHANGES**

- 1) Separate constitution of J&K ceases to be in operation
- 2) No special powers u/a 370 and u/a 35A
- 3) All constitutional provisions will be applicable
- 4) Laws made by Union will be automatically applicable
- 5) IPC will supersede Ranbir Penal code

ANALYSIS**POSITIVES**

- 1) Political and economic integration
- 2) No discrimination u/a 35A
- 3) Attract investment
- 4) Tapping the tourism potential
- 5) Prevent politicisation of the issues
- 6) Tackling militancy

CHALLENGES

- 1) The move is criticised as against Federalism
- 2) Against SC judgments
- 3) alienation of Kashmiris
- 4) civil rights violations

REFORMS

- 1) focus on development of the UTs

- Union packages and projects
- Central govt schemes
Eg. National Saifron Mission
PM KISAN etc

- 2) New domicile policy
- 3) changes to Public Safety Act
- 4) J&K Panchayati Raj Act
- 5) New land laws
- 6) New grievance redressal system

IMPLICATIONS

- 1) Concerns regarding new domicile policy
- 2) Gupkar declaration
- 3) New terror outfit
 - TRF
 - diplomatic challenges
 - border disputes
- 4) international issues

JUDGEMENT

- 1) Anuradha Bhasin vs UOI 2020 case - citizens' right to freedom of speech and rights to carry out business using the internet are constitutionally protected. Any restriction should be VIA (a)(2) and based on test of proportionality

WAY FORWARD

- 1) Arguments by Prof Amitabh Mattoo (Given separately)
- 2) Insaniyat, Jamhuriyat, Kashmiriyat A.B. Vijayee

ANTI-DISCRIMINATION LAW**QUOTE**

Democracy is not merely a form of govt.. it is essentially an attitude of respect and reverence towards fellowmen.

- Dr. B.R. Ambedkar

CONTEXT

- Revelations made by cricketers Irfan Pathan, Darren Sammy
- Black lives matter

CONSTITUTION

FRs Right to equality (Art 14-18)
DPSP Article 46 etc.

ISSUES

- 1) Dehumanisation and hierarchic society
- 2) Atrocities against lower castes
- 3) Discrimination based on identities
- 4) Political polarisation and discrimination
- 5) Gender discrimination
- 6) Discriminatory Laws
- 7) Sons of the soil politics
- 8) Disparate impacts

JUDGEMENTS

1) Navtej Singh Johar Case - SC held that social morality cannot overshadow constitutional morality

2) Madhu vs Northern Railway: essential benefits like medical services subject to a declaration by an employee might be 'facially neutral' but it produced a disparate impact, particularly on women and children

STEPS

- 1) Affirmative actions
- 2) Various social legislations
 - SC/ST Act
 - Prevention of manual scavenging Act
 - Transgender Protection Act
 - RTE

- 3) Institutions - NCSC (ST, SC etc)
- 4) Various schemes

EFFORTS

- 1) Bhopal declaration 2002
- 2) Put member bill by Shashi Tharoor

COMMITTEE

- 1) Sachar committee - Equal opportunity Commission

GLOBAL

- South African case

Along with the constitutional guarantee, an all encompassing law prohibits discrimination (PUBG put)

CONCLUSION

- Social endosmosis - Dr. B.R. Ambedkar

FUNDAMENTAL RIGHTS VS FUNDAMENTAL DUTIES

QUOTE

'Real rights are a result of the performance of duty'
- Gandhi's Hind Swaraj

CONTEXT

PM Modi had called for a 'paradigm shift' in India from the centrality of FRs to FDs
The importance of FDs is being stressed upon during the covid-19 pandemic

CONSTITUTION

Part III - FRs

Part IV A FDs v/a 51-A (42 RA, 1976)
(Please go through the 11 FDs)

SIGNIFICANCE

RIGHTS

- 1) Human dignity
- 2) Social justice
- 3) Individual freedom & potential
- 4) Responsible Govt
- 5) Liberal democracy
- 6) Negative obligations on the Govt

DUTIES

- 1) Responsible citizen
- 2) Reminder of national goals
- 3) Tolerance
- 4) Fraternity
- 5) Protection of envt
- 6) Protection of public property

ISSUES

RIGHTS

- 1) encroachment of rights
- 2) judiciary dependent

DUTIES

- 1) forced upon citizens

JUDGEMENTS

With respect to covid-19 and social distancing, Bombay HC observed that, 'It is the right time to remind ourselves of the FDs of a citizen. Quite often citizens show serious concern about their FRs but then forget the fundamental duties'

FREEDOM OF SPEECH & EXPRESSION & CENSORSHIP**QUOTE**

"Dissent is the safety valve of democracy"

Justice D.Y. Chandrachud

CONTEXT

There were protests and violence seeking banning of certain films and books

CONSTITUTION

- freedom of speech and expression U/A 19(1)(a)
- Reasonable restrictions U/A 19(2)

ISSUES

- 1) threat to public order
- 2) against creative freedom
- 3) chilling effect on free speech
- 4) majoritarianism
- 5) indiscriminate use of section 95 of CrPC
- 6) concerns of judicial censorship
- 7) "Hecklers Veto"
- 8) State acting like 'furens Patriae'
- 9) influence the masses

BANNING OF BOOKS

Section 95 of the CrPC allows govt to ban books which violate certain sections of the IPC.
Thus the onus to approach the court falls on the writer and thereby affecting his freedom of speech and expression

CASE OF FILMS

- 1) Pre-censorship
- 2) CBFC is a statutory body under cinematograph Act
Films can be publicly exhibited only after they get certification from CBFC
- 3) New guidelines issued under cinematograph Act by each govt

IMP JUDGEMENTS

SC in Rangarajan vs P. Jagjeevan Ram case held that a mere threat to public order cannot be a ground to suppress freedom of expression.

In K A Abbas case, the constitutional validity of CBFC was challenged. However SC held that censorship of films including prior restraint is valid under the Constitution.

SHYAM BENEGAL COMMITTEE

- 1) emphasis on certification over censorship
- 2) selection of Board members should be based on criteria
- 3) 50% representation for women
- 4) more categories of certification

CINEMATOGRAPH AMENDMENT BILL 2019 - The amendment aims to tackle film piracy. However the bill is criticised to be limited in scope and toothless to prevent piracy.

HATE SPEECH

CONTEXT Hate speech in social medias, by politicians and even Media houses

CONSTITUTION - 19(1) freedom of speech and expression
19(2) reasonable restrictions

DEFINITION - There is no proper definition of hate speech. However SC observed that hate speech is an effort to marginalise individuals based on their membership in a group.

267th Law Commission report (2017) defines hate speech as an 'incitement to hatred primarily against a group of persons defined in terms of race, ethnicity, gender, sexual orientation, religious beliefs and like like'

LAWS
124 A - Sedition
295A - hurting religious sentiments
153 A - promotion of enmity between different groups

CONCERN

- 1) Targeting minorities or vulnerable groups
- 2) Increasing incidents of online hate speech
- 3) cyber bullying and affecting the dignity of women
- 4) incitement to violence
- 5) defamation
- 6) Majoritarianism

VISWANATHAN COMMITTEE

- 1) Appointment of cybercrime coordinators in all states and anti-cyber crime cells in each district to deal with online hate speech
- 2) Amend IPC and insert section 153 C to prohibit incitement to hatred
- 3) Insert section 505 A in the IPC to prevent provocation of violence on the grounds of identity

CONTEmPT OF COURT

QUOTE

"The law of contempt has a vague and wandering jurisdiction, with uncertain boundaries; contempt law, regardless of public good, may unwittingly trample upon civil liberties"

Justice V.R. Krishna Iyer

NEWS PAPER REPORTS

Advocate Prashant Bhushan was held in contempt for two tweets on CJ

WHAT IS COC - It is an act of disrespect or disobedience to the dignity or authority of court

It seeks to protect judicial institutions from motivated attacks or unwarranted criticism and as a legal mechanism to punish those who lower courts authority

COC is one of the reasonable restrictions via 19(2)

Art 129 confers on the SC the power to punish contempt of itself (Art 215 - II C)

The COC Act 1971 gives statutory backing to it. Accordingly it divides contempt into civil and criminal contempt

ISSUES

- 1) chilling effect on free speech
- 2) inherent biasness and against the principle of natural justice
- 3) constructive criticism is imp. in a democracy
- 4) suo-motu powers to courts and vague definition
- 5) Discourage whistle blowers
- 6) Social media and contempt

IMP JUDGEMENTS

D P N Dada vs Shiv Shankar & Ors, SC observed that judges cannot use the contempt jurisdiction for upholding their own dignity. No one could be restricted to criticise the judicial system unless this criticism hampers the 'administration of justice'

2) Indirect Tax Practitioners Association vs RK Jain. SC held that truck is a defence in matters of criminal contempt

LAW COMMISSION OBSERVATIONS - High number of cases, impact on subordinate courts, ambiguity issues

GLOBAL CASES

i) Abolished in western democracies Eg. UK

WAY FORWARD

- Mulgaonkar principles - The court will act with seriousness where justice is jeopardised and the if it is a calculated attack to destroy the judicial process; and court is willing to ignore venial offences

THE DNA TECHNOLOGY (USE & APPLICATION) REGULATION BILL, 2019

CONTEXT The Parliamentary Standing Committee in its report pointed out that some of the provisions in the bill could be misused.

OBJECTIVE

The Bill seeks to create a regulatory framework for obtaining, storing and testing of DNA samples of human beings mainly for the purpose of criminal investigations, with the objective of establishing the identity of the person.

KEY PROVISIONS

- 1) DNA testing is allowed only in matters listed in the Schedule of the Bill.
- 2) Consent is required for collection of DNA samples if the offence carries a punishment.
- 3) Set up two institutional framework, a DNA regulatory board & a DNA data bank, at the national level.
- 4) Criteria for entry, retention and removal of the DNA profile will be specified by regulations.
- 5) Violators of the provisions will be liable for punishment.

ANALYSIS

Pros	Cons
<ol style="list-style-type: none"> 1) Crime investigation 2) Identification of missing persons and dead 3) Improve conviction rate 4) Proper regulation of the data 	<ol style="list-style-type: none"> 1) Privacy concerns 2) Sample contamination 3) Lack of infrastructure 4) Data breach

JUDGEMENT

J. K.S. Puttaswamy case - SC held that Right to privacy is a fundamental right

COMMITTEE

Parliamentary Standing Committee

- 1) The sensitive information can be misused to incorrectly link a particular caste or community to criminal activities.
- 2) Disregard to privacy and other safeguards.

- 3) The power of the magistrate to override the consent in effect makes consent perfunctory
- 4) If a person has been found innocent, then his DNA profile has to be removed immediately from the data bank.
- 5) Independent scrutiny of the proposals to destroy samples and remove DNA profiles from the data base.

INFODEMIC & FAKE NEWS**QUOTE**

'we are living in a trust paradox' - Edelman CEO

CONTEXT

Fake news 'Info-demic' has became a serious threat to the societies.

INFODEMIC

- Sudden increase in the volume of information associated with a specific topic over a short time.
- In this situation, misinformation, rumors and manipulation of information appears on the scene

FAKE NEWS

- Deliberate creation and sharing of false and/or manipulated information published under the guise of being authentic news

MEANS

internet, social media, mainstream media
click baits, echo chambers, propaganda
doctored videos and pictures

CONCERN

- 1) Post-truth Society
- 2) Mob lynching
- 3) polarisation
- 4) communalisation
- 5) manipulation of elections
- 6) threat to democracy
- 7) affect the financial institutions, Pub & Pvt sector
- 8) Global issue

STEPS

- 1) Provisions of IT Act 2000, Section 69(c), Sec 79
- 2) Guidelines by the Govt
- 3) Safeguards by the companies
- 4) Compulsory registration of online portals
- 5) Fact checking organisations
- 6) Law enforcement
- 7) Awareness building

QUOTE

MEDIA

"A free press should neither be an ally nor an adversary but a constructive critic" - Mahatma Gandhi

CONTEXT

Trial by media in Sushant Singh Rajput case
Issues of biased journalism, hate speech

SIGNIFICANCE

- 1) fourth pillar of democracy
- 2) information, education, awareness creation
- 3) ensuring justice
- 4) good governance and accountability
- 5) Dissemination of govt policies

CONSTITUTION

- 19 (1) (a) freedom of press
19 (2) reasonable restrictions

JUDGEMENTS

SC in Brij Bhushan & Anr vs State of Delhi (1950)
case held that freedom of press is part of
FOSE u/a 19(1)(a)

CHALLENGES

- 1) Media freedom
- 2) Propoganda
- 3) Political biases
- 4) Paid media
- 5) Sensationalisation
- 6) Yellow journalism
- 7) Media trial
- 8) hate speech
- 9) Gender bias
- 10) Corruption
- 11) Corporatisation
- 12) TRP issues
- 13) No objective journalism
- 14) fake news
- 15) Clickbait

Eg. cobra post

Eg. Sushant Singh Rajput case

MEDIA ETHICS

Truth and Accuracy
Objectivity
Impartiality
Serving public interest
Independence
Respect for law and universal human values

PRINCIPLES

- 1) Principle of Golden mean
- 2) Principle of utility
- 3) Principle of harm minimization

REGULATION

MODE

- 1) State
- 2) Independent
- 3) self regulation

MECHANISMS

Eg. PCI
NBSA

BEST PRACTICES

- 1) BBC Model
- 2) Swiss Federal Act

QUOTE**CUSTODIAL TORTURE**

'If the custodians of law themselves indulge in committing crimes then no member of the society is safe and secure'

- Supreme Court

NEWSPAPER REPORTS

Custodial death of P. Jayaraj and his son Bennix in Tamil Nadu

ISSUES

- 1) Police brutality to extract information and acceptance by society
- 2) Human rights abuse
- 3) Affects most vulnerable
- 4) Failure of legislature, executive, judiciary & media
- 5) Draconian and colonial era statutes

SC JUDGEMENTS

- 1) DK Basu vs State of West Bengal ; SC issued guidelines to be followed in all cases of arrest and detention
- 2) Prakash Singh vs UOI 2006 ; SC issued 7 directives for police reforms

WAY FORWARD

- 1) Anti Torture Bill
- 2) Police reforms
- 3) Enforcement of laws and SC guidelines

ANTI-TORTURE BILL, 2017**SIGNIFICANCE**

- 1) Human dignity is a core constitutional value
- 2) India's failure to ratify UN Convention Against Torture (UNCAT)
- 3) NHRC stressed for a stand alone law
- 4) Facilitate the extradition of criminals
- 5) SC described torture as an 'instrument of human degradation' used by the state

KEY PROVISIONS

- 1) It gives a wide definition to torture
- 2) State is responsible for any injury inflicted by its agents on the people
- 3) It provides for a presumption that injuries of any person in police custody is inflicted by the police action unless proven otherwise
- 4) Courts should provide judiciable compensation for victims
- 5) Punishment ranges from fine to life imprisonment

4)

Pros	Cons
<ul style="list-style-type: none">1) Protect human rights2) prevent custodial deaths3) helps in extradition process	<ul style="list-style-type: none">1) Police will continue to have the responsibility of investigating the torture / custodial deaths. Hence complaints about torture rarely result in successful prosecution

LAW COMMISSION

In its 273rd report has proposed an anti-torture law

INTERSTATE RIVER WATER ISSUES**CONTEXT**

Three bills presented in Parliament - (i) River water disputes bill 2019
 (ii) River basin management bill (iii) Dam safety Authority Bill

River water disputes between states Eg. Cauvery, Godavari, Krishna

CONSTITUTION

Water is in Entry 17 of state list
 Inter-state rivers and river valleys Entry 56 union list
 Article 262 provides for adjudication of water disputes

LAW

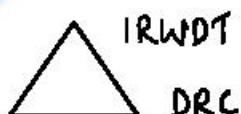
River Board Act, 1956
 Interstate water disputes Act, 1956

REASONS FOR INTERSTATE RIVER WATER DISPUTES

- 1) Historical - geographical ambiguity
- 2) Constitutional - legal ambiguity
- 3) Institutional ambiguity

INTERSTATE RIVER WATER DISPUTES (AMENDMENT) BILL, 2019

- 1) Two-tier resolution mechanism
- 2) Time limit DRC - 1½ years
 IRWDT - 3 years
- 3) Decision - IRWDT decision shall be final and binding
- 4) River basin data - for data collection

**RIVER BASIN MANAGEMENT BILL**

- 1) for the management of 13 river basins in the country by setting up exclusive authority and making separate master plan for each of them, i.e. River Basin Authorities
- 2) This will replace River Boards Act 1956
- 3) Recommendations will be binding

DAM SAFETY AUTHORITY BILL

- 1) Dam safety Bill 2019 sought to create a legal and institutional framework to ensure proper inspections, surveillance operation and maintenance of dams.
- 2) The Bill seek to establish National Dam Safety Authority and state Dam safety organisations.
- 3) The Bill provides for comprehensive safety evaluation (CSE) by an independent panel of experts

CONCERN!!

- 1) Centralisation of power and impartiality
- 2) Implementation of the Tribunals award
- 3) River Boards Act has remained a dead letter
- 4) Lack of human resources and state capacity related to dam safety
- 5) Politicisation of the issues
- 6) Issues with food security policies - dominance of water consuming crops

MPLADS**CONTEXT**

Temporary suspension of the MPLADS

MPLADS

Members of Parliament Local Area Development Scheme (MPLADS) is a central sector scheme. It is aimed towards providing fund for developmental works, for creation of durable community assets based on locally felt needs recommended by individual MPs. Every year Rs 5 crore can be spent in their respective constituencies.

The scheme is administered by MOSPI.

SIGNIFICANCE

- 1) Development of the constituencies based on local needs
- 2) Address emergencies
- 3) 15% of the fund has been earmarked for SC & 7.5% for ST and also fund allotted for the welfare of differently abled people
- 4) Sense of direct responsibility of MPs

CRITICISM

- 1) Against separation of powers
- 2) Against federalism
- 3) Implementation issues
- 4) Mismanagement of funds
- 5) No statutory backing

SC JUDGEMENT

It upheld the constitutionality of MPLAD

SUGGESTIONSBY MOSPI

- 1) A single parliamentary committee comprising MPs of both houses to monitor the MPLAD scheme

BY CIC

- 1) Proper utilisation of the funds by each MP

UPAAT - Through which MPs can track the developmental works

CBI

QUOTE

"CBI is a caged parrot that speaks in its masters voice"
Supreme Court

CBI

- 1) CBI is the premier investigating police agency in India
- 2) Established in 1963, under Delhi Special Police Establishment Act 1946.
- 3) CBI Director is appointed by a committee comprising the PM, CJI and Leader of Opposition

SC JUDGEMENT

SC while hearing coal block allocation scam in 2013 observed that CBI is behaving like a caged parrot that speaks in its masters voice.

ISSUE

- 1) Image of an impartial institution has been tarnished
- 2) No clarity on the role of CVC wrt CBI
- 3) No security of tenure to the Director
- 4) Corruption and abuse of power
- 5) Expansion of the roles and responsibilities
- 6) Multiple authorities control
- 7) Internal conflicts
- 8) Low conviction rates and delays
- 9) Withdrawal of 'general consent' by many states

RECOMMENDATIONS

- 24th report on working of CBI (2008)

By DPL related Parliamentary Standing Committee on Personnel Public Grievances Law and Justice

- 1) Needs a new act for CBI
- 2) Expansion of infrastructure and resources
- 3) Ensure impartiality and independence
- 4) Strengthen the existing agencies

Parliamentary committee (2015) recommended integrating CVC and anti-corruption wing of the CBI to work directly under the command and control of Lokpal to deal with corruption cases

FCRA

CONTEXT

The Parliament passed the Foreign Contribution (Regulation) Amendment Bill 2020. It amends FCRA 2010.

FCRA

It regulates the acceptance and utilisation of foreign contributions by the individuals, associations and companies.

AMENDMENT

- 1) The act prohibits acceptance of foreign contribution by election candidates, editor or publisher of newspapers, judges, govt servants, members of legislature and political parties. The amendment adds 'public servant' (as defined under IPC) to this list.
- 2) The bill amends the provision to prohibit the transfer of foreign contribution to 'any other person'.
- 3) Bill adds that any person seeking prior permission, registration or renewal of registration must provide Aadhaar number of all its office bearers, directors or key functionaries.
- 4) Foreign contribution must be received only in a bank designated by the bank as FCRA account in designated branch of SBI.
- 5) The foreign contribution must use it only for the purpose for which the contribution is received. And must not use more than 20% of the contribution for meeting admin expenses (earlier 50%).
- 6) Registration can be suspended for a period not exceeding 180 days. The bill says suspension can be extended to another 180 days.

RATIONALE

- 1) To ensure basic statutory compliances
- 2) Misappropriation of funds by NGOs
- 3) Diversion of funds for other than the purpose for which it is received.

POSITIVE

- 1) Transparency and accountability
- 2) Ensure spending on the main objectives of NGOs
- 3) Aadhaar registration to establish identity

CONCERNs

- 1) 'model of control' which stifles the NGOs and their work
- 2) Prevents 'sub-contracting'
- 3) Shutting down of small NGOs
- 4) Against SC judgement on Aadhaar

SC JUDGEMENT

: SC (March 2020) held that the central govt cannot brand an organisation 'political' and deprive it of its right to receive foreign funds for using legitimate forms of dissent to aid a public cause

LATERAL ENTRY

CONTEXT An analysis of Centre Govt's policy of lateral entry into civil services

LATERAL ENTRY

Refers to a mode of joining an organisation by-passing its regular mode of a higher level in its hierarchical structure
Lateral entry in civil service is recommended by 2nd ARC and NITI Aayog

Benefits	Issues
<ol style="list-style-type: none"> 1) To have specialists 2) Address the shortage of officers at the middle level 3) Policy making field is becoming increasingly complex 4) Encourage competition 5) Improved governance and adoption of best practice 	<ol style="list-style-type: none"> 1) A civil servant's job is different from private sector job 2) Best talent can be attracted only if there is a reasonable assurance of reaching top level positions 3) Discontent among the govt personnel 4) May increase the disconnect between policymaking and implementation

ONE YEAR - ANALYSIS

- 1) Lateral entry experts have 'become like any IAS officer'
- 2) No progress on further recruitments
- 3) Lateral entry cannot overhaul the civil service

RECOMMENDATIONS

- 1) 2nd ARC recommended 'central civil services Authority' to earmark positions for which outside talent could be considered in consultation with the govt
- 2) NITI Aayog
 - 1) Institutionalise goal setting and tracking for each department
 - 2) Increase specialisation and induce lateral entry
 - 3) E-governance and paperless governance

MISSION KARMAYOGI - capacity building for civil servants

Strategy for New India @ 75 – NITI Aayog

- 1) Recruitment
 - i) encourage lateral entry
 - ii) strengthen municipal corporation cadres
- 2) Training
 - i) re-orient training to meet job-outcome oriented goals
 - ii) mid-career training modules.
- 3) Evaluation
 - i) Replace ACR, with MIF (Multi-stakeholder feedback)
 - ii) compulsory retirement for underperforming officers
- 4) Governance
 - i) Improve public access to information through the RTI and RTI Act
 - ii) introduce appropriate system of checks and balance, including for the process of suspension

QUOTE**NHRC**

"The rights of every man are diminished when the rights of one man are threatened."

- John F. Kennedy

CONTEXT

Parliament passed amendments to Protection of Human Rights Act incidents like encounter killings and custodial deaths

NHRC

A statutory organisation established under PHRA, 1993 for protection and promotion of human rights, in India it is in conformity with the 'Paris Principles' endorsed by the UNGR

POSITIVES

Interventions by NHRC given separately

ISSUES

- Credibility crisis
- Limited powers of investigation
- Systemic issues wrt selection, appointment etc
- Lack of independence and funding
- Backlog of cases

PROTECTION OF HUMAN RIGHTS (AMENDMENT) ACT 2019**AMENDMENTS**

- 1) chairperson - SC Judge is also made eligible other than CJI (Same wrt SHRC)
- 2) composition & strength - increased no members from 2 to 3 and one must be women
 - Eligible for reappointment
 - Chairperson of NCBC, NCPHR, CCPD as deemed members of NHRC

POSITIVES

- 1) Strengthen the institutions
- 2) In compliance with the Paris Principles

FISCAL FEDERALISM

Fiscal Federalism - is the financial relations between units of govt's in a federal system

ISSUES

- 1) GST compensation issue
- 2) 15th Finance commission
- 3) Covid and fiscal issues

GST COMPENSATION ISSUE

CONTEXT : GST collections plunged due to lockdown, but is back to normal collections and crossed Rs 1 lakh crore in October and Nov, 2020

COMPENSATION TO STATES : The states were guaranteed payment for any loss of revenue in the first 5 years i.e from July 2017.

ISSUE

- 1) Pending compensation } states no longer possess taxation
- 2) Objections by states } rights after GST (banning petrol, alcohol, stamp duty)
- 3) States finances are under severe strain
 - A) Delays in salary payments and sharp cuts in capital exp
 - B) FRL limitations on states
 - C) Few states rejected centre's alternate options
 - D) Against fiscal federalism

15TH FINANCE COMMISSION

CONTEXT 15th FC submitted its report. Earlier it submitted the interim report for 2020-2021

INTERIM REPORT

- Vertical devolution 4% and adjusted 1% to J&K and Ladakh

		<u>ISFC</u>	<u>IAFC</u>
2) Criterias & weights	1) Income distance 2) Population <u>2011</u>	45%. 15%	50 10% 17.5% (19%)
	3) Area	15%.	15%.
	4) Forest & ecology	10%.	7.5% (Forest cover)
	5) Demographic performance	12.5%.	—
	6) Tax effort	2.5%.	—
		100%.	100%.

- 3) It recommended revenue deficit grants, grants to local bodies and disaster management grants
- 4) It recommended that both central and state govt should focus on debt consolidation and comply with PRBM acts
- 5) It also said that both centre and state govt should make full disclosure of extra-budget borrowings

CHALLENGES

- 1) Reduce share of vertical devolution to increase capital exp. to revive economic growth (NR Bhanumurthy VC)
- 2) Tinker weightages to strike a right balance for ensuring better performing states do not lose out much and poor states get necessary help
- 3) To examine the possibility of a new defence fund
- 4) Focus on health (to spend 2.5% of GDP on health care)
- 5) Ensuring PRBM+ compliance in the backdrop of covid

COVID & FISCAL FEDERALISM

- 1) Lockdown affected the states finances
- 2) reduced capital exp by states
- 3) increased burden to provide better health care
- 4) GST implications and GST compensation issues
- 5) Non utilisation of cesses for the purpose of its collection
- 6) Denial of state disaster funds from the benefit of CSR contributions
- 7) Suspension of MPLAD Scheme

DEFENCE INDIGENISATION

DI : It is the process of acquiring self-reliance in defence technology and production

SIGNIFICANCE

- 1) To ensure strategic autonomy
- 2) Reduced dependency on arms imports : As per Stockholm International Peace Research Institute (SIPRI), India is the second largest arms importer during 2015-2019.
(Saudi Arabia - 1st, China 5th, Pakistan 11th)
- 3) Two-front war - A collusive China Pak military threat
- 4) Capability building
- 5) Make in India in defence production

DEFENCE ACQUISITION PROCEDURE 2020 : by MoD to boost defence indigenisation

KEY FEATURES

- 1) Negative list (ban on imports)
- 2) focus on indigenisation of imported spares
- 3) Encourage OEMs to setup manufacturing entities (FDI)
- 4) Time bound defence procurement and faster decision making
- 5) reservations in categories for Indian vendors
- 6) 'offset Policy' revised to give preference to manufacture of complete defence products,
- 7) focus on 'ease of doing business'

CHALLENGES

- 1) Lack of funds
- 2) clear strategic planning
- 3) technical difficulties
- 4) procurement policy issues
- 5) neglect to necessary ammunitions
- 6) Private sector participation

WAY FORWARD

- 1) Optimisation of pvt sector
- 2) FDI encouragement in defence
- 3) Streamline defence procurement process