

Fundamental **FUNDAMENTAL RIGHTS**

Duties

**Citizenship
Amendment Bill**

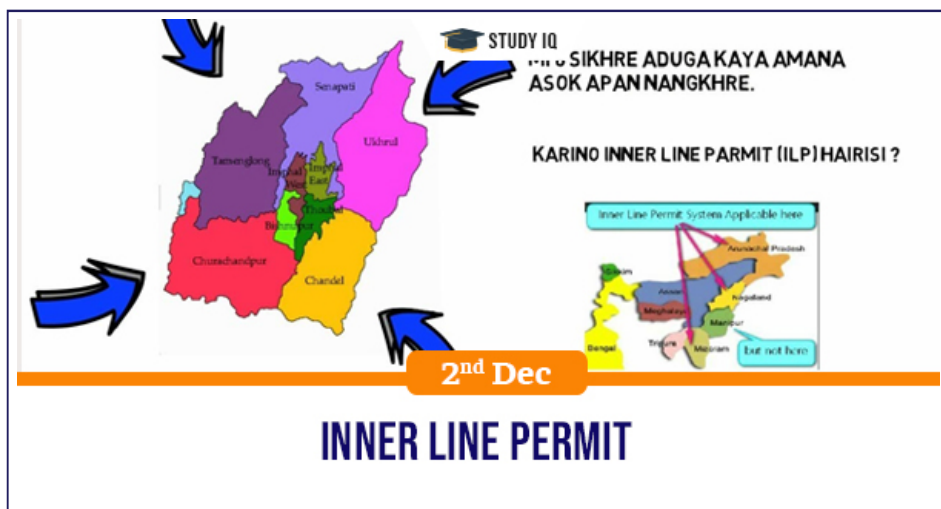
SECTION

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**WE OPPOSE
CITIZENSHIP
(AMENDMENT)
BILL**

Polity & Governance

Inner Line Permit



Issue

In anticipation of the upcoming Citizenship Amendment Bill, the northeastern states have raised concerns regarding the validation of Inner Line Permit.

Background

Union Home Minister Amit Shah assured representatives of North-eastern states that the Bill would provide protection to such regions and states where the Inner Line Permit (ILP) is applicable, and autonomous administration has been granted under the Sixth Schedule of the Constitution.

Details

Inner Line Permit is a document that allows an Indian citizen to visit or stay in a state that is protected under the ILP system. The system is in force today in three Northeastern states viz Arunachal Pradesh, Nagaland and Mizoram.

No Indian citizen can visit any of these states unless he or she belongs to that state, nor can he or she overstay beyond the period specified in the ILP.

History

The concept comes from the colonial area. Under the Bengal Eastern Frontier Regulation Act, 1873, the British framed regulations restricting the entry and regulating the stay of outsiders in designated areas. This was to protect the Crown's own commercial interests by preventing "British subjects" (Indians) from trading within these regions. In 1950, the Indian government replaced "British subjects" with "Citizen of India". This was to address local concerns about protecting the interests of the indigenous people from outsiders belonging to other Indian states.

Concerns

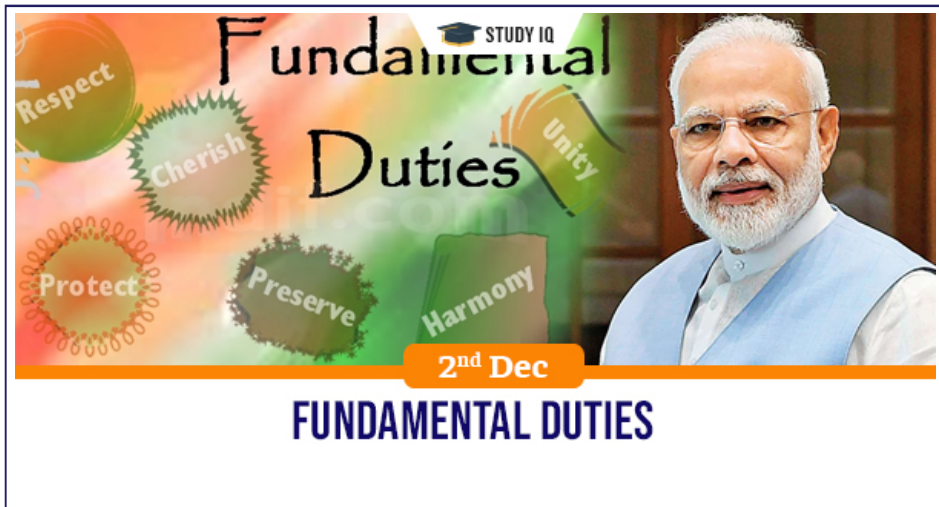
The Citizenship (Amendment) Bill aims to make it easier for non-Muslim refugees from Bangladesh, Pakistan, and Afghanistan to obtain Indian citizenship.

If it is implemented with provisions for excluding from its ambit the states under the ILP regime, it means that beneficiaries under CAB will become Indian citizens but will not be able to settle in these three states.

The North East Students' Organisation, an umbrella body of all powerful students' bodies of the regions had reiterated its demand for overall implementation of the Inner Line Permit (ILP) in all NE states.

The three states that have seen the highest migration and likely to be affected from Citizenship Bill are Assam, Tripura and Meghalaya, none of which has an ILP system.

Fundamental duties



Issue

Addressing a Joint Session of Parliament last on the occasion of constitution day, Prime Minister Narendra Modi had stressed the importance of constitutional duties. Vice President M Venkaiah Naidu called for fundamental duties to be included in the school curriculum and the list of the duties to be displayed at educational institutions and at other public places.

Background

Fundamental Duties are described in the Constitution, an Emergency-era provision that was introduced by the Indira Gandhi government.

Details

The Fundamental Duties were incorporated in **Part IV-A** of the Constitution by the Constitution **42nd Amendment Act, 1976**, based on a report by **Swaran Singh committee**, by Indira Gandhi's government.

There are 11 Fundamental Duties described under **Article 51-A**, of which 10 were introduced by the 42nd Amendment and the 11th was added by the 86th Amendment in 2002, during Atal Bihari Vajpayee's government. Apart from adding the Fundamental Duties, the 42nd Amendment also changed the Preamble to the Constitution to include the words 'Socialist and Secular' to describe India, in addition to its being 'Sovereign Democratic Republic'.

These are statutory duties, not enforceable by law, but a court may take them into account while adjudicating on a matter.

The idea behind their incorporation was to emphasise the obligation of the citizen in exchange for the Fundamental Rights that he or she enjoys.

The concept of Fundamental Duties is taken from the Constitution of Russia.

Fundamental Duties

To abide by the constitution and respect its ideals and institutions, the National Flag and the National Anthem.

To cherish and follow the noble ideals which inspired our national struggle for freedom.

To uphold and protect the sovereignty, unity and integrity of India.

To defend the country and render national service when called upon to do so.

To promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women.

To value and preserve the rich heritage of our composite culture.

To protect and improve the natural environment including forests, lakes, rivers and wild life and to have compassion for living creatures.

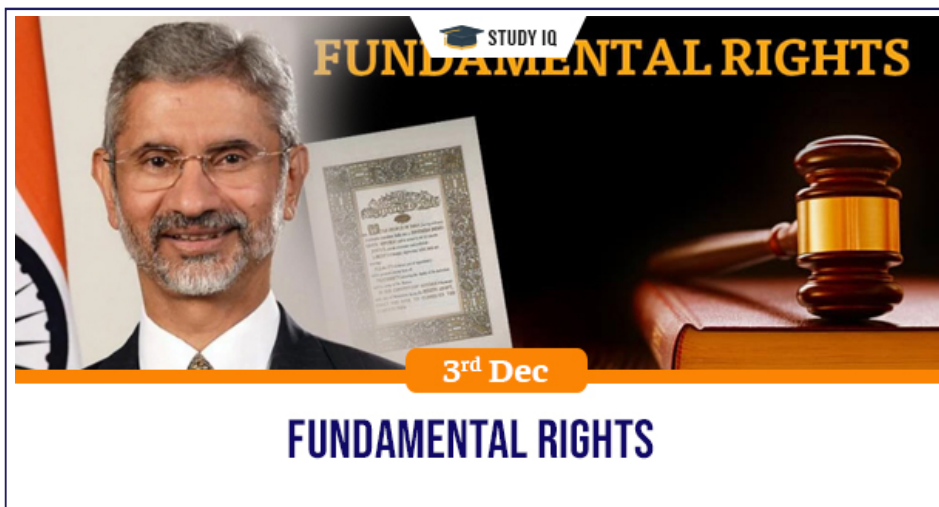
To develop the scientific temper, humanism and the spirit of inquiry and reform.

To safeguard public property and to abjure violence.

To strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement.

Who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.

Fundamental Rights



Issue

External Affairs Minister S Jaishankar has told the visiting Swedish Foreign Minister that the right to life is the most basic and fundamental human right.

Background

Some members of the European Union community and US had raised the issue of human rights in Jammu and Kashmir. The Indian position will be that cross-border terrorism would lead to loss of life, a violation of the right to life which is the most basic human right.

Fundamental Rights

Part III and article 12 to 35 of the constitution guarantees certain basic rights to the citizens of India known as the Fundamental Rights, which are justifiable.

The Fundamental Rights has been classified under the six categories- Right to Equality, Right to Freedom, Right against Exploitation, Right to Freedom of Religion, Cultural and Educational rights and Right to constitutional remedies.

1. Right to Equality (Art. 14-18)

(Article 14): represents the idea of equality, which states that the state shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

(Article 15): Non-discrimination on grounds of religion, race, caste, sex, or place of birth

The Article 15 states that the state shall not discriminate against any citizen on grounds only of religion, caste, sex, place of birth, or any of them and would not be subject to any disability, liability, restriction, or condition.

(Article 16): Equality of opportunity in public employment

Article 16 states that no citizen shall on grounds only of religion, race, caste, sex, descent, place of birth, residence, or any of them, be ineligible for, or discriminated against in respect of any employment or office under the state.

(Article 17): Abolition of Untouchability

Article 17 abolishes Untouchability and forbids its practice in any form.

(Article 18): Abolition of Titles

Article 18 abolishes all titles and prohibits the state to confer titles on anybody whether a citizen or a non-citizen. However, military and academic distinctions are exempted from the prohibition.

Right to Freedom (Art. 19-22)

(Article 19): Right to Freedom

The Right to Freedom guarantees to the citizens of India six Fundamental Freedoms: 1) Freedom of Speech and Expression, 2) Freedom of Assembly, 3) Freedom to form associations, 4) Freedom of Movement, 5) Freedom to reside and to settle, and 6) Freedom of profession, occupation, trade, or business.

(Article 20): Protection in respect of Conviction for Offences

Article 20 provides protection against arbitrary and excessive punishment to any person who commits an offence.

(Article 21): Protection of Life and Personal Liberty

Article 21 states no person shall be deprived of his life or personal liberty except according to procedure established by law.

(Article 22): Safeguards against Arbitrary Arrest and Detention

Firstly, Article 22 guarantees the right of every person who is arrested to be informed of the cause of his arrest; secondly, his right to consult, and to be defended by a lawyer of his choice. Thirdly, every person arrested and detained in custody shall be produced before the nearest Magistrate within a period of twenty-four hours and shall be kept in continued custody only with his authority.

Right against Exploitation (Art. 23 and 24)

Article 23 prohibits traffic in human beings, women, children, beggars or other forced labour militate against human dignity.

Article 24 prohibits employing children below the age of 14 years in any hazardous profession. This right followed the human rights concepts and United Nations norms.

Right to Freedom of Religion(Art. 25-28)

Article 25 offers freedom of Conscience and Free Profession, Practice and Propagation of Religion.

Article 26 helps to manage religious affairs, which is subject to public order, morality and health, every religious denomination or any section.

Article 27 provides freedom not to pay taxes for religious expenses on promotion or maintenance of any particular religion.

Article 28 prohibits religious instructions in educational institutions wholly maintained by the state.

Cultural and Educational Rights (Art. 29 and 30)

Article 29 provides protection of interests of minorities. A minority community can effectively conserve its language, script, or culture by and through educational institution.

Article 30 states rights of minorities whether based on religion or language to establish and administer educational institutions.

Right to Constitutional Remedies (Art. 32- 35)

Article 32 guarantees the right to move Supreme Court by appropriate proceedings for the enforcement of Fundamental Rights and deals with Supreme Court's power to issue order or writs for the enforcement of Fundamental Rights.

Article 33 empowers Parliament to modify the application of Fundamental Rights to the armed forces or forces charged with maintenance of public order.

Article 34 puts restriction on this part while martial law is in force in any area.

Notwithstanding anything in the foregoing provisions of this Part, Parliament may by law indemnify any person in the service of the Union or of a State or any person in respect of any act done by him in connection with the maintenance or restoration or order in any area within the territory of India where martial law was in force.

Article 35 lays down that the power to make laws to give effect to certain specified Fundamental Rights shall vests only with the Parliament and not with State Legislatures.

Notes

STUDY IQ

Fugitive Economic Offender



Issue

A Mumbai PMLA judge declared jeweller Nirav Modi, key accused in the Punjab National Bank (PNB) fraud case, a “fugitive economic offender” (FEO) based on a plea by the Enforcement Directorate (ED).

Background

At the beginning of this year, a special court had declared liquor baron Vijay Mallya an FEO, also on a plea by the ED, the first such designation of an accused individual.

Details

An FEO is defined by The Fugitive Economic Offenders (FEO) Act, 2018 as “any individual against whom a warrant for arrest in relation to a scheduled offence has been issued by any court in India, who (i) has left India so as to avoid criminal prosecution; or (ii) being abroad, refuses to return to India to face criminal prosecution”.

The FEO Act aims “to provide for measures to deter fugitive economic offenders from evading the process of law in India by staying outside the jurisdiction of Indian courts, to preserve the sanctity of the rule of law in India and for matters connected therewith or incidental thereto”.

Economic offences relate to fraud, counterfeiting, money-laundering, tax evasion, etc. Among the laws available for prosecuting these offences are The Prevention of Money-Laundering Act (PMLA), 2002, The Benami Properties Transactions Act, 1988, and The Companies Act, 2013.

Need for the Act

The Finance Ministry released a draft Bill to address cases of high-value economic offenders fleeing the country to avoid prosecution. It observed that existing civil and criminal laws did not contain specific provisions to deal with such offenders, and that a new legal framework was needed to prosecute them.

The ministry also argues that procedures under these laws were time-consuming, led to roadblocks in investigation and impacted the financial health of banks.

Process for declaring Economic Offender

Under the Act, an application must be filed in the special court asking that a particular individual may be declared an FEO.

The application must be accompanied by “reasons for the belief that an individual is a fugitive economic offender; any information available as to the whereabouts of the fugitive economic offender; a list of properties or the value of such properties believed to be the proceeds of crime”, etc.

The special court may then issue notice to the individual to appear at a specified place, and drop the proceedings if the individual complies.

If the special court is satisfied that an individual is an FEO, it may, record so in an order, along with reasons. The court may then order the confiscation of the properties of the accused individual in India or abroad.

Data protection Bill and its drawbacks



Issue

The **Personal Data Protection (PDP) Bill, 2019** has been approved by the Cabinet and is slated to be placed in Parliament this winter session. The Bill has three key aspects that were not previously included in a draft version, prepared by a committee headed by retired Justice B N Srikrishna.

Background

Data is any collection of information that is stored in a way so computers can easily read them. Data usually refers to information about your messages, social media posts, online transactions, and browser searches.

Details

Data is stored in a physical space similar to a file cabinet of documents, and transported across country borders in underwater cables. To be considered useful, data has to be processed and analysed.

Data is collected and handled by entities called data fiduciaries. While the fiduciary controls how and why data is processed, the processing itself may be by a third party, the data processor.

The physical attributes of data like where data is stored, where it is sent, where it is turned into something useful, are called data flows.

Data localisation arguments are premised on the idea that data flows determine who has access to the data, who profits off it, who taxes and who “owns” it.

Need for Protection

The large collection of information about an individual and his online habits has become an important source of profits, but also a potential avenue for invasion of privacy because it can reveal extremely personal aspects.

Companies, governments, and political parties find it valuable because they can use it to find the most convincing ways to advertise to online.

Highlights of Personal Data Protection Bill

The Bill trifurcates personal data. The umbrella group is all personal data, from which an individual can be identified.

Some types of personal data are considered sensitive personal data (SPD), which the Bill defines as financial, health, sexual orientation, biometric, genetic, transgender status, caste, religious belief, and more. Another subset is critical personal data.

The government at any time can deem something critical, and has given examples as military or national security data.

The approved Bill removes stipulation for storing copy of all personal data in India. It requires individual consent for data transfer abroad. Similar to the draft, however, the Bill still requires sensitive personal data to be stored only in India.

It can be processed abroad only under certain conditions including approval of a Data Protection Agency (DPA). The final category of critical personal data must be stored and processed in India.

The Bill mandates fiduciaries to give the government any non-personal data when demanded. Non-personal data refers to anonymised data, such as traffic patterns or demographic data.

The Bill also requires social media companies, which are deemed significant data fiduciaries, to develop their own user verification mechanism.

The Bill includes exemptions for processing data without an individual's consent for "reasonable purposes", including security of the state, detection of any unlawful activity or fraud, whistleblowing, medical emergencies, credit scoring, operation of search engines and processing of publicly available data.

The Bill calls for the creation of an independent regulator DPA, which will oversee assessments and audits and definition making. Each company will have a Data Protection Officer (DPO) who will liaison with the DPA for auditing, grievance redressal, recording maintenance and more. It also grants individuals the right to data portability, and the ability to access and transfer one's own data. Finally, it legislates on the right to be forgotten.

Importance of data localisation

Data localisation will help law-enforcement access data for investigations and enforcement.

Domestic-born technology companies, which store most of their data exclusively in India, support localisation. They have strongly argued that data regulation for privacy and security will have little teeth without localisation.

Many economy stakeholders say localisation will also increase the ability of the Indian government to tax Internet giants.

Arguments against the bill

Civil society groups have criticised the open-ended exceptions given to the government in the Bill, allowing for surveillance.

Even if the data is stored in the country, the encryption keys may still be out of reach of national agencies.

Protectionism may backfire on India's own young start-ups that are attempting global growth, or on larger firms that process foreign data in India, such as Tata Consulting Services and Wipro.

Arms Bill (Amendment) 2019



Issue

Home Minister Amit Shah had introduced the Arms (Amendment) Bill, 2019 in Lok Sabha. The Bill seeks to amend the Arms Act, 1959 by reducing the number of firearms allowed per person from the current three, to just one.

Background

It also proposes new categories of offences and an increase in the penalty for certain offences. The Punjab government and groups in Rajasthan, including the Karni Seva, have opposed it.

Details

The Punjab government's position is that over 50 per cent of the state's farmers stay in remote villages and need arms to protect themselves. Villagers close to the Pakistan border are also insecure about infiltrators.

Many residents inherited vintage weapons from their ancestors, which they do not want to part with.

In Rajasthan, members of the Rajput community have opposed the proposed amendments and outfits such as the Shree Rashtriya Rajput Karni Sena (SRRKS) have threatened to protest.

Reasons for change in law

The government maintains the move will help reduce firearms-related crime. According to National Crime Record Bureau's 2016 report, in Punjab, 48 were murdered by use of firearms, out of which 22 were licensed firearms and 26 were illegal.

In Rajasthan, 23 victims were murdered by use of firearms and all murders were committed using illegal weapons.

Arms Bill (Amendment) 2019

The Bill seeks to amend the Arms Act, 1959. It seeks to decrease the number of licensed firearms allowed per person and increase penalties for certain offences under the Act. It also introduces new categories of offences.

The Bill reduces the number of permitted firearms from three to one. This includes licenses given on inheritance or heirloom basis. The Bill provides a time period of one year to deposit the excess firearms with the officer-in-charge of the nearest police station or with a licensed firearm dealer as specified.

The Act bans manufacture, sale, use, transfer, conversion, testing or proofing of firearms without license. It also prohibits shortening of firearm barrel or conversion of imitation firearms into firearms without a license.

The Act punishes acquisition, possession or carrying of prohibited ammunition without a license, with imprisonment between five and ten years, along with fine.

The Bill adds new offences. These include: (i) forcefully taking a firearm from police or armed forces, punishable with imprisonment between 10 years and life imprisonment, along with fine, (ii) using firearms in a celebratory gunfire which endangers human life or personal safety of others, punishable with imprisonment of up to two years, or fine of up to one lakh rupees, or both.

National Human Rights Commission



Issue

A petition has been filed in the National Human Rights Commission seeking an autopsy on the deceased's bodies of the criminals, who were killed in an encounter with the police.

Background

The accused in the rape and murder of the Hyderabad veterinarian were taken to the spot of the crime to recreate the murder scene. The accused tried to escape using police weapons and were subsequently shot dead.

Details

The encounter of the four accused by Hyderabad Police under dubious circumstances caused controversy with a majority of Indians supporting the move.

While critics expressed reservations against the glorifying custodial death and even called for inquiries, police have clarified that the killings were in self-defense.

The Centre has sought a report from Telangana government over "custodial killing" of the alleged rapists. Since it is a killing in custody, as per existing guidelines state will have to apprise NHRC via MHA.

National Human Rights Commission

The National Human Rights Commission (NHRC) of India is a Statutory public body constituted on 12 October 1993 under the Protection of Human Rights Ordinance of 28 September 1993.

NHRC is responsible for the protection and promotion of human rights, defined by the Act as "Rights Relating To Life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants".

Composition

The NHRC consists of:

A Chairperson, who has been a Chief Justice of India or a Judge of the Supreme Court

One member who is, or has been, a Judge of the Supreme Court of India

One member who is, or has been, the Chief Justice of a High Court

Three Members, out of which at least one shall be a woman to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights

In addition, the Chairpersons of National Commissions (Scheduled Castes, Scheduled Tribes, Women, Minorities, Backward Classes, Protection of Child Rights) and Chief Commissioner for Persons with Disabilities serve as ex officio members.

Appointment

The Chairperson and members of the NHRC are appointed by the President of India, on the recommendation of a committee consisting of:

The Prime Minister (Chairperson)

The Home Minister

The Leader of the Opposition in the Lok Sabha (Lower House)

The Leader of the Opposition in the Rajya Sabha (Upper House)

The Speaker of the Lok Sabha (Lower House)

The Deputy Chairman of the Rajya Sabha (Upper House)

Functions

The Protection of Human Rights Act mandates the NHRC to perform the following:-

- proactively or reactively inquire into violations of government of India human rights or negligence iention of such violation by a public servant
- the protection of human rights and recommend measures for their effective implementation
- review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures
- to study treaties and other international instruments on human rights and make recommendations for their effective implementation
- undertake and promote research in the field of human rights
- engage in human rights education among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means
- encourage the efforts of NGOs and institutions congress to working in the field of human rights.
- it considers the necessity for the protection of human rights.
- requisitioning any public record or copy thereof from any court or office.

Notes

International Financial Services Centres Authority (IFSCA) Bill, 2019



Issue

The International Financial Services Centres Authority Bill, 2019 is likely to be taken up by Parliament for discussion next week. The Bill provides for the establishment of an Authority to develop and regulate the financial services market in the International Financial Services Centres in India.

Background

The Bill will be applicable to all International Financial Services Centres (IFSCs) set up under the Special Economic Zones Act, 2005.

The first IFSC in India has been set up at the Gujarat International Finance Tec-City (GIFT City) in Gandhinagar.

Details

An IFSC enables bringing back the financial services and transactions that are currently carried out in offshore financial centres by Indian corporate entities and overseas branches/subsidiaries of financial institutions (FIs) to India by offering business and regulatory environment that is comparable to other leading international financial centres in the world like London and Singapore.

IFSCs are intended to provide Indian corporates with easier access to global financial markets, and to complement and promote further development of financial markets in India.

The International Financial Services Centres Authority will consist of nine members, appointed by the central government.

They will include, apart from the chairperson of the authority, a member each from the Reserve Bank of India (RBI), the Securities and Exchange Board of India (SEBI), the Insurance Regulatory and Development Authority of India (IRDAI), and the Pension Fund Regulatory and Development Authority (PFRDA); and two members from the Ministry of Finance.

In addition, two other members will be appointed on the recommendation of a Search Committee. All members of the IFSC Authority will have a term of three years, subject to reappointment.

Functions of IFSCA

The Authority will regulate financial products such as securities, deposits or contracts of insurance, financial services, and financial institutions which have been previously approved by any appropriate regulator such as RBI or SEBI, in an IFSC.

Regulation of any other financial products, financial services, or financial institutions in an IFSC, which may be notified by the central government; and to recommend to the central government any other financial products, financial services, or financial institutions, which may be permitted in an IFSC.

Need for IFSCA

The dynamic nature of business in the IFSCs necessitates a high degree of inter-regulatory coordination. It also requires regular clarifications and frequent amendments in the existing regulations governing financial activities in IFSCs.

The development of financial services and products in IFSCs would require focussed and dedicated regulatory interventions.

It will act as a unified financial regulator for IFSCs in India to provide world class regulatory environment to financial market participants.

Citizenship (Amendment) Bill 2019



Issue

The contentious Citizenship (Amendment) Bill, (CAB), which generated widespread protests in the north-eastern states, will be tabled in the Lok Sabha for consideration and passage.

Background

Members of Hindu, Sikh, Buddhist, Jain, Parsi and Christian communities, who come from Afghanistan, Bangladesh or Pakistan facing persecution there, will not be treated as illegal immigrants but given Indian citizenship when the proposed amendments to the six-decade-old Citizenship Act come into effect.

Details

The Citizenship (Amendment) Bill-2019 will provide Indian citizenship to the six minority communities from Bangladesh, Afghanistan, and Pakistan. These six communities are - Hindu, Buddhist, Jain, Parsi, Christian and Sikhs.

At present, it is mandatory for a person to stay here for at least 11 years to get citizenship of India.

The bill will reduce this period to six years. It will enable people from these communities to get Indian citizenship in six years.

It will make some amendments to the Citizenship Act 1955 to provide legal aid for citizenship.

Existing provisions

According to the Citizenship Act, 1955, illegal migrants cannot get citizenship of India. The people, who have entered India without valid travel documents like passports and visas or have come to India with valid documents but stay here longer than the period mentioned therein, are considered as illegal migrants under this law.

According to the Citizenship Act, 1955, illegal migrants can either be kept in jail or sent back to their country under the Foreigners Act, 1946 and the Passports (Entry into India) Act, 1920.

In 2015 and 2016, the central government has made some amendments in the laws of 1920 and 1946. It exempted Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan to stay in India.

Reasons for opposition

The biggest concern of the opposition parties is that it specifically targeted the Muslim community. Opposition parties said that this is a violation of Article 14 of the Constitution, which speaks of the right to equality.

The opposition to the Bill stems from the fear that a flood of Bengali-speaking immigrants, who will legitimately settle down in Assam and rest of North East, can fast alter the existing cultural ecosystem, blurring indigenous identities.

Notes

Creamy layer principle in Sc/ST quota for promotion



Issue

The Centre has urged the Supreme Court to refer to a larger Bench its decision last year had to apply the creamy layer principle to promotions for Scheduled Castes and Scheduled Tribes in government jobs.

Background

The petitioners claimed that amendments were brought to reverse the effect of the decision in the Indra Sawhney case of 1992 (Mandal Commission case), in which the Supreme Court had excluded the creamy layer of OBCs from reservation benefits.

Details

In Jarnail Singh vs Lachhmi Narain Gupta (2018), the court dealt with a batch of appeals relating to two reference orders, first by a two-judge Bench and then by a three-judge Bench, on the correctness of the Supreme Court's judgment in M Nagaraj & Others vs Union of India (2006). The Nagaraj case, in turn, had arisen out of a challenge to the validity of four Constitution amendments, which the court eventually upheld. The court said reservation should be applied in a limited sense, otherwise it will perpetuate casteism in the country.

It is made clear that even if the State has compelling reasons, it will have to see that its reservation provision does not lead to excessiveness so as to breach the ceiling-limit of 50% or obliterate the creamy layer or extend the reservation indefinitely". In other words, the court extended the creamy layer principle to SCs and STs too.

Last year, a five-judge Constitution Bench refused to refer the Nagaraj verdict to a larger bench. It held as “invalid” the requirement laid down by the Nagaraj verdict that states should collect quantifiable data on the backwardness of SCs and STs in granting quota in promotions.

when a Court applies the creamy layer principle to Scheduled Castes and Scheduled Tribes, it does not in any manner tinker with the Presidential List under Articles 341 or 342. It is only those persons within that group or sub-group, who have come out of untouchability or backwardness by virtue of belonging to the creamy layer, who are excluded from the benefit of reservation.

Important amendments

77th Amendment: It introduced Clause 4A to the Constitution, empowering the state to make provisions for reservation in matters of promotion to SC/ST employees if the state feels they are not adequately represented.

82nd Amendment: It inserted a proviso at the end of Article 335 to enable the state to make any provision for SC/STs “for relaxation in qualifying marks in any examination or lowering the standards of evaluation, for reservation in matters of promotion to any class or classes of services or posts in connection with the affairs of the Union or of a State”.

85th Amendment: It said reservation in promotion can be applied with consequential seniority for the SC/ST employee.

Way Forward

The whole object of reservation is to see that backward classes of citizens move forward so that they may march hand in hand with other citizens of India on an equal basis.

This will not be possible if only the creamy layer within that class bag all the coveted jobs in the public sector and perpetuate themselves, leaving the rest of the class as backward as they always were.

Overseas Citizen of India



Issue

Overseas Citizen of India card holders are facing major problems while travelling to the country because adequate awareness has not been created about recent enforcement of a rule on renewal.

Background

OCI, a major facility for members of the Indian diaspora, brings them at par with non-Resident Indians in financial, economic and educational fields except in the acquisition of agricultural or plantation properties.

Details

OCI card holders are eligible for free multiple entry, multi-purpose life-long visa to visit India. OCI card holders are also exempted from reporting to police authorities for any length of stay in India.

Overseas Citizen of India

The Overseas Citizenship of India (OCI) is an immigration status permitting a foreign citizen of Indian origin to live and work in the Republic of India indefinitely.

The OCI was introduced in response to demands for dual citizenship by the Indian diaspora, particularly in developed countries.

It was introduced by The Citizenship (Amendment) Act, 2005 in August 2005.

The Government of India, on application, may register any person as an Overseas Citizen of India, if the person:

- was a citizen of India on 26 January 1950 or at any time thereafter; or
- belonged to a territory that became part of India after 15 August 1947; or
- was eligible to become a citizen of India on 26 January 1950; or
- is a child or a grandchild or a great-grandchild of such a citizen; or
- is a minor child of such persons mentioned above; or
- is a minor child and whose both parents are citizens of India or one of the parents is a citizen of India; or
- is a spouse of foreign origin of a citizen of India or spouse of foreign origin of an Overseas Citizen of India Cardholder registered under section 7A of the Citizenship Act, 1955 and whose marriage has been registered and subsisted for a continuous period of not less than two years immediately preceding the presentation of the application.

Overseas citizens of India are not citizens of India from a constitutional point of view and will not enjoy the following rights even if resident in India:

- they do not have the right to vote,
- they do not have the right to hold the offices of Prime Minister, President, Vice-President, Judge of Supreme Court and High Court, member of Lok Sabha, Rajya Sabha, Legislative Assembly, or Council.
- they do not have the right to any public services (government jobs).
- they do not have the right to hold farmland (agricultural property).

Notes

Andhra Pradesh approves 'Disha' bill



Issue

The Andhra Pradesh Cabinet has cleared the A.P. Disha Bill, 2019 (A.P. Criminal Law (Amendment) Bill, 2019) paving the way for awarding the death penalty for the offences of rape and gang-rape and expediting the verdict in trials of such cases to 21 days.

Background

The delay in justice is one of the major problems in issues such as Sexual assault. There has been widespread protests against authorities for delivering punishment to the accused.

Details

The proposed laws seek to amend relevant provisions in the Indian Penal Code, 1860, and the Code of Criminal Procedure, 1973, and to introduce Sections 354-E and 354-F in the IPC for dealing with harassment of women through social media and sexual assault of children respectively. The Cabinet also gave its nod for introduction of the A.P. Special Court for Specified Offences against Women and Children Bill, 2019, for dealing with offences against women and children, including rape and gang-rape, acid attacks, stalking, voyeurism, sexual harassment and cases under the Protection of Children from Sexual Offences (POCSO) Act.

The A.P. Criminal Law (Amendment) Bill, 2019, envisages the completion of investigation and trial in seven and 14 working days respectively, where there is adequate conclusive evidence, and reducing the total judgment time to 21 days from the existing four months.

Under Section 354-E (harassment of women through social media, digital mode or any other form), it has been proposed to sentence the guilty to imprisonment for up to two years on first conviction and four years on subsequent convictions.

Under Section 354-F (molestation / sexual assault), imprisonment is sought to be increased to a minimum of five years and maximum seven years.

Notes

STUDY IQ

CAG blames Coal India for violating environmental laws



Issue

The Comptroller and Auditor General's (CAG) report on the environmental impact due to mining activities and mitigation measures at Coal India Limited (CIL) and its subsidiaries, has found several discrepancies.

Background

The Central government had formulated the national environmental policy in September 2006, but the CIL formulated a comprehensive policy only in March 2012, followed by a revised one in December 2018.

Details

Although guidelines containing the responsibility and delegation at different levels in environment discipline were formulated by CIL, the same were not dovetailed in their operating manual by the subsidiaries. Shortcomings were noticed in the implementation of prescribed CIL guidelines in 17 of the 28 operating mines selected for scrutiny.

Comptroller and Auditor General

The Comptroller and Auditor General (CAG) of India is an authority, established by **Article 148** of the Constitution of India, which audits all receipts and expenditure of the Government of India and the state governments, including those of bodies and authorities substantially financed by the government.

The CAG is also the external auditor of Government-owned corporations and conducts supplementary audit of government

companies, i.e., any non-banking/ non-insurance company in which Union Government has an equity share of at least 51 per cent or subsidiary companies of existing government companies.

The reports of the CAG are taken into consideration by the Public Accounts Committees (PACs) and Committees on Public Undertakings (COPUs), which are special committees in the Parliament of India and the state legislatures.

His salary is same as that of judge of the Supreme court of India. Neither his salary nor rights in respect of leave of absence, pension or age of retirement can be varied to his disadvantage after his appointment.

The CAG is not eligible for further office either under the Government of India or under the Government of any State after he has ceased to hold his office.

Appointment and Removal

CAG is appointed by the President by warrant under his hand and seal.

The CAG can be removed only on an address from both houses of parliament on the ground of proved misbehaviour or incapacity.

The CAG vacates the office on attaining the age of 65 years even without completing the 6 years term by impeachment also.

Functions

The duties of the CAG include the audit of:

Receipts and expenditure from the Consolidated Fund of India and of the State and Union Territory having legislative assembly.

Trading, manufacturing, profit and loss accounts and balance sheets, and other subsidiary accounts kept in any Government department; Accounts of stores and stock kept in Government offices or departments.

Government companies as per the provisions of the Companies Act, 2013. Corporations established by or under laws made by Parliament in accordance with the provisions of the respective legislation.

Authorities and bodies substantially financed from the Consolidated Funds of the Union and State Governments. Anybody or authority even though not substantially financed from the Consolidated Fund, the audit of which may be entrusted to the C&AG.

Grants and loans given by Government to bodies and authorities for specific purposes. Entrusted audits e.g. those of Panchayati Raj

Institutions and Urban Local Bodies under Technical Guidance & Support (TGS).

Assam accord



Issue

The debate on the Citizenship Amendment Bill (CAB) passed by Parliament has repeatedly flagged the alleged violation of the Assam Accord by the new law.

Background

The Assam Accord was a Memorandum of Settlement signed by the Governments of India and Assam, and the All Assam Students' Union (AASU) and the All Assam Gana Sangram Parishad (AAGSP) in New Delhi on August 15, 1985.

Details

At the heart of the Accord was the "Foreigners Issue" and "Safeguards and Economic Development". There were some "Other Issues" and a section on "Restoration of Normalcy".

The Home Ministry was the nodal Ministry for the implementation of the Accord. In 1986, a new Department was set up in the Government of Assam, called "Implementation of Assam Accord Department", to implement the various clauses of the Memorandum of Settlement.

It was agreed that "for purposes of detection and deletion of foreigners, 1.1.1966 shall be the base data and year", and that "all persons who came to Assam prior to 1.1.1966, including those amongst them whose names appeared on the electoral rolls used in 1967 elections shall be regularised".

Foreigners who “came to Assam after 1.1.1966 (inclusive) and upto 24th March, 1971 shall be detected in accordance with the provisions of The Foreigners Act, 1946, and The Foreigners (Tribunals) Order, 1964”, and their names “will be deleted from the electoral rolls in force”.

While, “On the expiry of a period of ten years following the date of detection, the names of all such persons which have been deleted from the electoral rolls shall be restored”, “all persons who were expelled earlier, but have since reentered illegally into Assam shall be expelled”.

Clause 6

It reads, “Constitutional, legislative and administrative safeguards, as may be appropriate shall be provided to protect, preserve and promote the culture, social, linguistic identity and heritage of the Assamese people.”

Importance

The Assam Accord brought closure to a phase of great violence and anxiety in the modern history of Assam. The agitation was led by the youth, who saw a direct threat to their future from the illegal influx of foreigners into the state.

The government of Assam describes the Assam movement as “historic”, and “one of the famous movements in post-colonial India mainly led by students of Assam”.

Notes

Supreme court issues notice to Election commission on election discrepancies



Issue

The Supreme Court has asked the Election Commission of India (ECI) to respond to a petition filed by two NGOs seeking a probe into alleged discrepancies between voter turnout and the number of votes counted in 347 constituencies in the 2019 Lok Sabha election.

Background

The petition said a study was done by them on the discrepancy patterns found in the ECI website and the 'My Voters Turnout App'. The petition said, there were six seats where the discrepancy in votes was higher than the winning margin.

Details

The ECI has a statutory duty to collate and publish accurate data relating to the elections held by it.

It has statutory duty to explain satisfactorily the resolution process, along with the methodology adopted for resolution of the discrepancies recorded during the course of election based on actual figures recorded in the statutory forms at each polling stations.

Election Commission of India

The Election Commission of India is an autonomous constitutional authority responsible for administering election processes in India at national, state and district level.

The body administers elections to the Lok Sabha, Rajya Sabha, state Legislative Assemblies, state legislative Councils, and the offices of the President and Vice President of the country.

The Election Commission operates under the authority of Constitution per **Article 324**, and subsequently enacted Representation of the People Act. Being a constitutional authority, Election Commission is amongst the few institutions which function with both autonomy and freedom.

Appointment and Removal

The President has the power to select Chief Election Commissioner and Election Commissioners.

They have tenure of **six years**, or up to the age of **65 years**, whichever is earlier.

The Chief Election Commissioner of India can be removed from office as can be a judge of the Supreme Court of India: a two-thirds majority resolution passed by the Parliament of India (Lok Sabha and Rajya Sabha) outlining the grounds of misbehavior or incapacity.

Other Election Commissioners can be removed by the President of India on the advice of the Chief Election Commissioner.

Functions

Key functions of the Election Commission of India are as under:

The Election Commission of India is considered the guardian of free and reasonable elections.

It issues the Model Code of Conduct in every election for political parties and candidates so that the decorum of democracy is maintained.

It regulates political parties and registers them for being eligible to contest elections.

It publishes the allowed limits of campaign expenditure per candidate to all the political parties, and also monitors the same.

The political parties must submit their annual reports to the ECI for getting tax benefit on contributions.

It guarantees that all the political parties regularly submit their audited financial reports.

The Commission can repress the results of opinion polls if it deems such an action fit for the cause of democracy.

The Commission can recommend for disqualification of members after the elections if it thinks they have violated certain guidelines. In case, a candidate is found guilty of dishonest practices during the elections, the Supreme Court and High Courts consult the Commission. The Commission can postpone candidates who fail to submit their election expense accounts timely.

Notes

STUDY IQ

New Karnataka tribes in ST list



Issue

The Bill passed a bill that seeks to include the **Taliwara**, **Parivara** and **Siddi** tribal communities in the Scheduled Tribes (ST) list, which will ensure that they get reservation and other benefits provided by the government in Karnataka.

Background

The Bill amends the section of The Constitution (Scheduled Tribes) Order, 1950 that deals with STs in Karnataka.

Details

In 2014, the government of Karnataka in a letter to the central government, recommended the inclusion of the Parivara and Taliwara “as synonyms castes of Nayuka caste in the list of Scheduled Tribes in Karnataka”.

Most people from these communities live in Mysore, Chamrajanagara, Mandya and Tumkur districts and a “thin population” resides in Udupi, South Canara and North Canara districts with a majority of them employed as coolies, engaged in collecting firewood, husbandry and the cottage industry, thereby leading a life of lower status.

The communities' life cycle rituals, language, lifestyle, standard of living, physical features, socio-economic and educational status and their geographical isolation are “characteristic features”, “similar to that of

scheduled tribe and also Beda, Nayaka and Valmiki”, communities that are already included in the ST category in the state of Karnataka.

Criteria for Scheduled Tribes

The criteria presently followed for specification of a community as a Scheduled Tribe are :

(i) indications of primitive traits, (ii) distinctive culture, (iii) geographical isolation, (iv) shyness of contact with the community at large, and (v) backwardness.

However, these criteria are not spelt out in the Constitution.

Notes

STUDY IQ

Law to protect against destruction of public property during protests



Issue

A Supreme Court Bench headed by Chief Justice of India S A Bobde has expressed displeasure over rioting and destruction of public property during protests.

Background

Despite a law against the destruction of property, incidents of rioting, vandalism, and arson have been common during protests across the country.

Details

The Prevention of Damage to Public Property Act, 1984 punishes anyone who commits mischief by doing any act in respect of any public property, with a jail term of up to five years and a fine or both. Provisions of this law can be coupled with those under the Indian Penal Code.

Public property under this Act includes “any building, installation or other property used in connection with the production, distribution or supply of water, light, power or energy; any oil installation; any sewage works; any mine or factory; any means of public transportation or of telecommunications, or any building, installation or other property used in connection therewith”. But they are found to be inadequate.

In 2007, the court took suo motu cognizance of various instances where there was large scale destruction of public and private properties in the name of agitations, bandhs, hartals and the like, and set up two Committees headed by former apex court judge Justice K T Thomas and senior advocate Fali Nariman to suggest changes to the law.

The Thomas Committee recommended reversing the burden of proof against protesters. Accepting the suggestion, the court said that the prosecution should be required to prove that public property had been damaged in direct action called by an organisation, and that the accused also participated in such direct action.

It added that the law must be amended to give the court the power to draw a presumption that the accused is guilty of destroying public property, and it would then be open to the accused to rebut such presumption.

Such a reversal of the burden of proof is applicable in cases of sexual violence, among others. Generally, the law presumes that the accused is innocent until the prosecution proves its case.

The Nariman Committee's recommendations dealt with extracting damages for destruction. Accepting the recommendations, the court said the rioters would be made strictly liable for the damage, and compensation would be collected to "make good" the damage.

Apart from holding rioters liable and imposing costs, the court also issued guidelines including directing High Courts to order suo motu action, and to set up a machinery to investigate the damage caused and award compensation wherever mass destruction to property takes place due to protests.

Like the law, the guidelines too, have had a limited impact. This is because the identification of protesters remains difficult, especially in cases where there is no leader who gave the call to protest.

Donald Trump set to be impeached



Issue

Republican Donald Trump is likely this week to become the third U.S. president to be impeached when the Democratic-led House of Representatives votes on charges of indulging in political conspiracy against his potential Presidential rival, Joe Biden.

Background

In congressional hearings, Democrats have accused Trump of endangering the U.S. Constitution, jeopardizing national security and undermining the integrity of next year's U.S. presidential election by asking Ukrainian President to investigate Biden and his son Hunter Biden, who was on the board of a Ukrainian gas company.

Details

Republicans hold 53 of the 100 seats in the Senate, which would require a two-thirds majority of those present to remove President from office. No U.S. president has been removed as a direct result of impeachment. Richard Nixon resigned in 1974 before he could be removed, while Andrew Johnson and Bill Clinton were impeached by the House, respectively in 1868 and 1998, but not convicted by the Senate. Mr. Trump has alleged the Bidens were involved in corruption in Ukraine and should be investigated there, but has offered no evidence. Mr. Biden, a former U.S. vice president, has denied wrongdoing.

Presidential impeachment in India

Supreme court shall inquire and decide regarding all doubts and disputes arising out of or in connection with the election of a president per Article 71(1) of the constitution.

Supreme court can remove the president for the electoral malpractices or upon being not eligible to be Lok Sabha member under the Representation of the People Act, 1951.

The president may also be removed before the expiry of the term through impeachment for violating the Constitution of India by the Parliament of India.

The process may start in either of the two houses of the parliament. The house initiates the process by levelling the charges against the president. The charges are contained in a notice that has to be signed by at least one-quarter of the total members of that house. The notice is sent up to the president and 14 days later, it is taken up for consideration.

A resolution to impeach the president has to be passed by a two-thirds majority of the total number of members of the originating house.

It is then sent to the other house. The other house investigates the charges that have been made.

During this process, the president has the right to defend oneself through an authorised counsel.

If the second house also approves the charges made by special majority again, the president stands impeached and is deemed to have vacated their office from the date when such a resolution stands passed.

No president has faced impeachment proceedings so the above provisions have never been used.

Though the president cannot be prosecuted and imprisoned during his term of office, he can be prosecuted after he/she steps down from the post for the guilty committed during the term of presidency as declared earlier by the courts.

Effects of personal data protection bill



Issue

The provisions of the Personal Data Protection (PDP) Bill, presented in Parliament and referred to a Joint Parliamentary Committee for examination, have received significant coverage due to concerns around state surveillance.

Background

The topic of data privacy became a public discussion since the Cambridge Analytica scandal broke out in March 2018. Since then all major countries have enacted regulations to either regulate use of data or gain access to data.

Details

India's PDP Bill lays down provisions for preventing misuse of personal data. It mandates where data can be stored and processed and also grants the government power to obtain non-personal data from companies.

The law, once passed, could have significant implications for foreign investment, international trade and national security.

Implications

Foreign Investment

A law like this can easily be seen as anti-competitive and unfriendly towards foreign investment.

Making it difficult and expensive for foreign companies to set up shop in India will discourage them from investing by increasing their cost of doing business through investment in local data centres, loss of economies of scale, manpower investments and concerns around oversight by regulators.

A positive outcome that may arise out of data localisation requirements is the need for companies to invest in better data centres and networking infrastructure. This may create new jobs and economic opportunities locally.

National Security

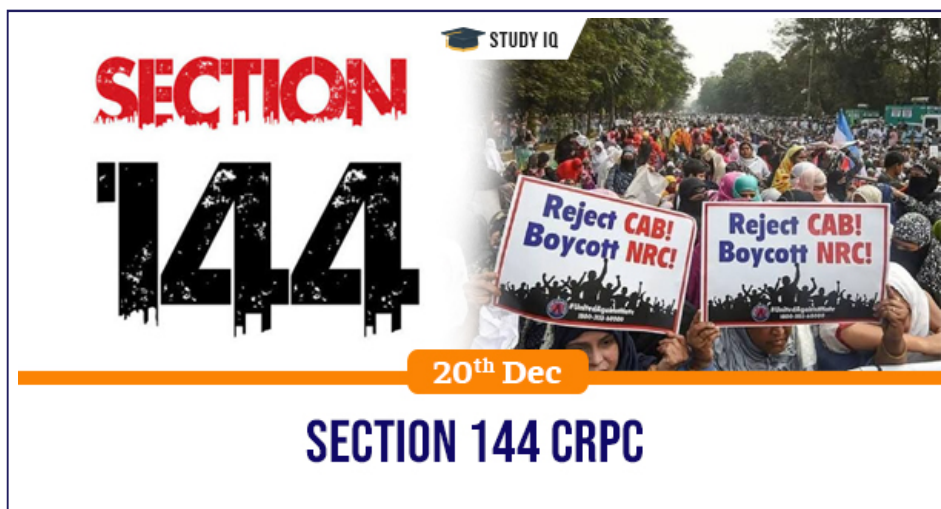
The PDP Bill is the government's concern that dependence on other countries for essential infrastructure can harm its national interest. United States' hegemonic attitude and security concerns when dealing with China make it imperative that India protects its data sovereignty. India needs to remain unfazed and continue to do what is best in its national interest.

Law Enforcement

Arguably, the biggest beneficiary could be Indian law enforcement agencies, who could get access to data for anti-terrorism purposes without having to go through international channels.

Currently, law enforcement agencies face a genuine challenge while trying to access personal data from companies that are subject to U.S. laws.

Section 144 CrPC



Issue

As the protests on CAA has intensified, state governments have sought to control the demonstrations by issuing prohibitory orders under Section 144 of the Code Of Criminal Procedure (CrPC), 1973.

Background

According to 141-149 of the Indian Penal Code (IPC), the maximum punishment for engaging in rioting is rigorous imprisonment for 3 years and/or fine. Every member of an unlawful assembly can be held responsible for a crime committed by the group.

Details

Section 144 CrPC, a law retained from the colonial era, empowers a district magistrate, a sub-divisional magistrate or any other executive magistrate specially empowered by the state government in this behalf to issue orders to prevent and address urgent cases of apprehended danger or nuisance.

The magistrate has to pass a written order which may be directed against a particular individual, or to persons residing in a particular place or area, or to the public generally when frequenting or visiting a particular place or area.

This usually includes restrictions on movement, carrying arms and from assembling unlawfully. It is generally believed that assembly of three or more people is prohibited under Section 144.

No order passed under Section 144 can remain in force for more than two months from the date of the order, unless the state government considers it necessary. Even then, the total period cannot extend to more than six months.

Criticism of section 144

The criticism is that it is too broad and the words of the section are wide enough to give absolute power to a magistrate that may be exercised unjustifiably.

Imposition of Section 144 to an entire state has also drawn criticism since the security situation differs from area to area.

Way forward

Occasions may arise when it is not possible to distinguish between those whose conduct must be controlled and those whose conduct is clear, hence its application becomes necessary.

A general order may be necessary when the number of persons is so large that the distinction between them and the general public cannot be made. The efficacy of the provision is to prevent some harmful occurrence immediately. Therefore, the emergency must be sudden and the consequences sufficiently grave for implementing this provision.

Notes

India's citizenship rules



Issue

As protests have been escalating due to amendment of citizenship rules, it is imperative to look at the existing citizenship provisions in our constitution.

Background

Citizenship constitutes the indispensable foundational principle of democratic polity. Citizenship provides rights such as right to vote, and are also subjected to duties or obligation, such as paying taxes. Citizenship is covered in Part II of the constitution, within articles 5-11.

Provisions

Article 5-8 conferred citizenship on each person who met the criteria below at the commencement of the Constitution :

Domiciled in India and born in India

domiciled not born in India but either of whose parents was born in India

domiciled, not born in India but ordinarily resident for more than five years

resident in India but migrated to Pakistan after 1 March 1947 and later returned to India on resettlement permit

resident in Pakistan but who migrated to India after 19 July 1948 or who came after that date but had resided for more than six months and got registered in prescribed manner

resident outside India but who or either of whose parents or grand parents were born in India

Indian Citizenship Act, 1955

The Citizenship Act, 1955 that came into force with effect from 30th December 1955 deals with matters relating to the acquisition, determination and termination of Indian citizenship.

It provides for the acquisition of Indian citizenship by birth, by descent, by registration and by naturalization .

The act has been amended by the Citizenship (Amendment) Act 1986, the Citizenship (Amendment) Act 1992, the Citizenship (Amendment) Act 2003, and the Citizenship (Amendment) Act, 2005.

The Original Act provided :

a person born in India after 26 January 1950 would, subject to certain exceptions be a citizen of India by Birth

anyone born outside India after 26 January 1950, subject to certain requirements, would be a citizen of India if his/her father was an Indian citizen at the time of his/her birth

under certain conditions, certain category of persons could acquire Indian citizenship by registration in prescribed manner

foreigners could acquire Indian citizenship on application for naturalization on certain conditions

if any territory became part of India, the Government of India could by order specify the persons who would become citizens of India as a result thereof

citizenship could be lost by termination, renunciation or deprivation on certain grounds

a citizen of commonwealth country would have the status of commonwealth citizen of India. Government could make suitable provisions on the basis of reciprocity.

Andhra Pradesh government plans to abolish Legislative Council



Issue

The State government is contemplating abolishing the Legislative Council and the proposal is likely to come up for discussion at the Cabinet meeting.

Background

The TDP, which has a majority in upper house, stalled two important Bills by incorporating certain amendments and sending them back to the Assembly. This has made the government think about abolishing council.

Details

The Legislative Council is the upper house in those states of India that have a bicameral legislature; the lower house being the State Legislative Assembly.

Its establishment is defined in Article 169 of the Constitution of India. At present, **Uttar Pradesh, Bihar, Telangana, Andhra Pradesh, Maharashtra** and **Karnataka** have a legislative council.

Each Member of the State Legislative Council (MLC) serves for a six-year term, with terms staggered so that the terms of one third of a State Legislative Council's membership expire every two years.

This arrangement parallels that for the Rajya Sabha, the upper house of the Parliament of India.

MLC must be a citizen of India, at least 30 years old, mentally sound, not an insolvent, and must be enrolled on the voters' list of the state for which he or she is contesting an election. He or she may not be a Member of Parliament at the same time.

The size of the State Legislative Council cannot be more than one third of the membership of the State Legislative Assembly. However, its size cannot be less than 40 members.

Membership of Legislative councils

One third are elected by the members of local bodies such as municipalities, Gram panchayats, Panchayat samitis and district councils. One third are elected by the members of Legislative Assembly of the State from among the persons who are not members of the State Legislative Assembly.

One sixth are nominated by the governor from persons having knowledge or practical experience in fields such as literature, science, arts, the co-operative movement and social service.

One twelfth are elected by persons who are graduates of three years' standing residing in that state.

One twelfth are elected by persons engaged for at least three years in teaching in educational institutions within the state not lower than secondary schools, including colleges and universities.

Notes

National Population Register



Issue

The Union Cabinet has approved a proposal to conduct Census 2021 and update the National Population Register (NPR).

Background

While the Census will be conducted in 2021, the NPR update will take place from April to September 2020 in all the States/UTs except Assam. It will be conducted under Home Ministry.

Details

The NPR is a register of usual residents of the country. It is mandatory for every usual resident of India to register in the NPR. It includes both Indian citizens as well as a foreign citizen.

The objective of the NPR is to create a comprehensive identity database of every usual resident in the country.

It is being prepared at the local (Village/sub-Town), sub-District, District, State and National level under provisions of the Citizenship Act 1955 and the Citizenship (Registration of Citizens and issue of National Identity Cards) Rules, 2003.

Usual resident

According to the Citizenship (Registration of Citizens and issue of National Identity Cards) Rules, 2003, a usual resident is a person who has resided in a local area for the past 6 months or more or a person who intends to reside in that area for the next 6 months or more.

Details for NPR

The demographic details of every individual are required for every usual resident on 21 points which includes 'date and place of birth of parents', last place of residence, Permanent Account Number (PAN), Aadhar (on a voluntary basis), Voter ID card number, Driving License Number and Mobile Number.

In the last NPR done in 2010, the data was collected on the 15 points and it did not include 'date and place of birth of parents' and last place of residence.

Difference between NPR and NRC

The NPR is different from the National Register of Citizens which excludes the foreign citizens.

A Population Register is 'the register containing details of persons usually residing in a village or rural area or town or ward or demarcated area (demarcated by the Registrar General of Citizen Registration) within a ward in a town or urban area.

Whereas, the 'National Register of Indian Citizens' is a register containing details of Indian Citizens living in India and outside India.

National Register of Indian Citizens' shall contain the particulars of every citizen i.e. Name; Father's name; Mother's name; Sex; Date of birth; Place of birth; Residential address (present and permanent); Marital status if ever married, name of the spouse; Visible identification mark; Date of registration of Citizen; Serial number of registration; and National Identity Number.

The National Register of Citizens (NRC) is a register of all Indian citizens whose creation is mandated by The Citizenship Act 1955 as amended in 2003.

Detention centres



Issue

After the Citizenship (Amendment) Act, 2019 was passed on December 11, there are fears that those excluded from NPR-NRC will be sent to detention centres.

Background

The Centre has the power to deport foreign nationals staying illegally in the country under Section 3(2)(c) of The Foreigners Act, 1946. State governments have also been entrusted under Article 258(1) of the Constitution to take similar steps.

Details

In 1998, the MHA under had written a letter to all States and Union Territories asking them to restrict the movement of convicted foreign nationals who had completed their jail sentence.

The letter said that they be confined to one of the detention centres/camps, pending confirmation of their nationality from the country concerned and to ensure their physical availability at all times for expeditious repatriation/deportation as soon as the travel documents are ready.

The centres are also used to hold foreigners who have been caught overstaying their visa term.

States were asked by the MHA to set up sufficient number of detention centres where the suspected illegal immigrants would be detained pending their deportation.

Detention centres

Detention centres are residential buildings meant to hold foreigners either staying illegally in the country or who have completed sentence and waiting for deportation.

Issues

Cleanliness and hygiene

Most of the existing detention centres are ill managed leading to worse living conditions. This has made them susceptible for spread of diseases.

Family seperation

All memebbers of a family are not kept at a single centre leading to seperation of children from their parents.

Slow resolution of the case

The case of individuals kept in detention centres linger on for many years leading to accumulation of detenees.

Notes

The preamble of Indian constitution



Issue

In the nationwide protests against the Citizenship Amendment Act, many of the programmes have been marked by a reading of the Preamble, which is reflective of the essence of the Constitution of India.

Background

A preamble is an introductory and expressionary statement in a document that explains the document's purpose and underlying philosophy.

Details

The original Preamble, adopted by the Constituent Assembly in 1949, declared India a "Sovereign Democratic Republic".

By the 42nd Amendment of 1976, enacted during the Emergency, the words "Socialist" and "Secular" were inserted and the Preamble now reads "Sovereign Socialist Secular Democratic Republic".

The Preamble is based on the Objective Resolution moved by Jawaharlal Nehru in the Constituent Assembly on December 13, 1946. The Resolution was adopted on January 22, 1947. It was the last part that was added into the constitution by the constituent assembly.

It secures justice, liberty, equality to all citizens of India and promotes fraternity amongst the people. It has been widely regarded as **soul of the constitution**.

The idea of the following things can be given by the Preamble which are:

1. Source of the Constitution
2. Nature of Indian State
3. A statement of its objectives
4. Date of its adoption

The Preamble of Indian Constitution

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens:

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity;

and to promote among them all

FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation.

Issues regarding preamble

Berubari Union case

In this case, it was held by the Supreme Court that the Preamble is **not the part** of the Constitution. However, it recognised that the Preamble could be used as a guiding principle if a term in any article of the Constitution is ambiguous or has more than one meaning.

Kesvananda Bharti v. State of Kerala

In this case, The Supreme Court overturned its earlier decision and held that the **Preamble** is a **part of the Constitution** and can be amended under **Article 368** of the Constitution. Again, in **LIC of India case**, the Supreme Court held that the **Preamble is a part of the Constitution**.

Law on Payment for destruction of public property



Issue

The Uttar Pradesh government has directed district administrations to serve notices on persons allegedly involved in arson and damage of public property, and direct them to pay a penalty.

Background

The quantum of the penalty is being determined according to the total cost of the damaged property. The protestors were found to have damaged public properties during the protest against the Citizenship Amendment Bill.

Details

The administration has said it derives such powers on the basis of an Allahabad High Court order of December 2, 2010 in Mohammad Shujauddin vs State of Uttar Pradesh.

It has said the police are empowered to take penal action under The Prevention of Damage to Public Property Act, 1984.

The High Court order, due to lacunae in the 1984 Act, has also empowered the civil administration to take action against the accused.

The High Court referred to a 2009 judgment of the Supreme Court relating to the destruction of public and private properties.

The Supreme Court had issued guidelines on the basis of recommendations made by two committees, headed by former Supreme Court Justice K T Thomas and senior advocate Fali Nariman.

The Nariman Committee's recommendations had dealt with extracting damages for destruction. Accepting the recommendations, the Supreme Court had said that the rioters would be made strictly liable for the damage, and compensation would be collected to "make good" the damage.

The High Court's judgement

As and when any incident of damage of public property takes place, if such agitation has been called at the "invitation of a political party or a sitting or former people's representative", a "report" shall be registered by the police against the political party/person by name.

A "concerned department, local body, public corporation", that is, the owner of the property, would assess the damage and shall file a claim for realization of such amount before a "competent authority".

There will be an "opportunity of hearing" against whom the claims is filed; and the competent authority is mandated to pass the "appropriate order" with a month after the hearing is complete.

Notes

Karnataka-Maharashtra Belgaum issue



Issue

The bus services between Kolhapur and Belgaum were suspended after the decades-old border dispute between Maharashtra and Karnataka flared up again.

Background

The dispute between Maharashtra and Karnataka over Belgaum and other border areas is a longstanding issue between the two states, and has been pending before the Supreme Court for many years.

Details

The erstwhile Bombay Presidency, a multilingual province, included the present-day Karnataka districts of Bijapur, Belgaum, Dharwar and Uttara-Kannada (previously North Kanara).

The States Reorganisation Act of 1956, which divided states on linguistic and administrative lines, made Belgaum a part of the then Mysore State (which was renamed Karnataka in 1973).

The Maharashtra government contested the inclusion and lodged a protest with the Centre in September 1957. This led to the formation of the Mahajan Commission under former Chief Justice Mehr Chand Mahajan in October 1966.

The Commission, which submitted its report in August 1967, recommended that 264 villages be transferred to Maharashtra and that Belgaum and 247 villages remain with Karnataka. Maharashtra rejected the report and demanded another review.

Maharashtra continues to claim over 865 villages along the border, as well as Belgaum city, which are currently part of Karnataka. Successive governments in Maharashtra have demanded their inclusion within the state. Karnataka has contested these claims.

Notes

STUDY IQ

STATE PSC COURSES



Madhya Pradesh PSC

~~Rs.50,000~~

~~Rs.28,000~~

Rs.15,000



Uttar Pradesh PSC

~~Rs.50,000~~

~~Rs.27,500~~

Rs.15,000



Bihar PSC

~~Rs.50,000~~

~~Rs.28,000~~

Rs.15,000



Jharkhand PSC

~~Rs.50,000~~

~~Rs.25,000~~

Rs.15,000



Himachal Pradesh

~~Rs.50,000~~

~~Rs.27,000~~

Rs.15,000



Tamil Nadu PSC

~~Rs.50,000~~

~~Rs.27,000~~

Rs.15,000



Maharashtra PSC

~~Rs.50,000~~

~~Rs.26,000~~

Rs.15,000



Gujarat PSC

~~Rs.50,000~~

~~Rs.25,000~~

Rs.15,000



Andhra Pradesh PSC

~~Rs.50,000~~

~~Rs.26,000~~

Rs.15,000



Karnataka PSC

~~Rs.50,000~~

~~Rs.26,000~~

Rs.15,000

