15 March 2019: UPSC Exam Comprehensive News Analysis

TABLE OF CONTENTS

A. GS1 Related

Nothing here today!!!

B. GS2 Related

Category: POLITY AND GOVERNANCE

1. RTI trumps Official Secrets Act, says SC

Context

- An all-out effort by the government to claim privilege and push the Rafale jets' pricing details back into the dark zone was met with a stoic counter from Justice K.M. Joseph in the Supreme Court.
- The government's reasons to hush the Rafale prices ranged from national security to not upsetting a "solemn undertaking" given to France to keep the price of the jets a secret.
- But Justice Joseph, one of the three judges on the Bench, asked the government to read out Sections of the Right to Information (RTI) Act, 2005. The judge said the information law has revolutionised governance and overpowered notions of secrecy protected under the Official Secrets Act, 1923.

What is Official Secrets Act?

- An 'Official Secrets Act' is a generic term that is used to refer to a law — originally invented by the British, and then exported across the Commonwealth — that is designed to keep certain kinds of information confidential, including, but not always limited to, information involving the affairs of state, diplomacy, national security, espionage and other state secrets.
- Across multiple countries, the Official Secrets Acts follow a similar pattern: classifying certain categories of information as "official secrets," and then providing stiff penalties for any sharing, dissemination or publication of such information.

Official Secrets Act 1923

- India's Official Secrets Act (OSA) dates back to 1923, unsurprisingly a creation of the colonial regime
- The 1923 Act includes penalties for spying (which, in turn, include even "approaching" or being "in the vicinity of" a prohibited place, publishing any "sketch" or "plan" that might be useful to the enemy, with a prejudicial purpose).
- It punishes the communication of any information obtained in contravention of the Act, which could prejudice the security of the state, or friendly relations with foreign states. Furthermore, it punished people who knowingly receive such information — a provision clearly designed to capture investigative journalism.
- The OSA is not used very often, but it is used enough times to keep it in the news, and to exercise a chilling effect (especially on investigative journalism). Recent, high-profile cases involving the OSA include that of the journalist Iftikhar Gilani (the case was withdrawn), the diplomat Madhuri Gupta (who was convicted of espionage charges), and the scientist Nambi Narayanan (who was charged, tried, and acquitted of espionage charges — and later directed to be paid compensation by the Supreme Court).

Right to Information (RTI) Act, 2005

- This law was passed by Parliament on 15 June 2005 and came fully into force on 12 October 2005.
- It mandates timely response to citizen requests for government information by various public authorities under Central Government as well as the State Governments.
- The law imposes penalty for willful default by government officials.
- Citizens can ask for anything that government can disclose to Parliament. Information that can prejudicially impact internal security, relations with foreign countries, intellectual property rights, breach of parliamentary privilege and impedes investigations cannot be shared with public under RTI.
- Objectives of RTI are to empower citizens (as right to information is fundamental right of the citizens under Article 19), promote transparency and accountability in working of Government, check corruption and make our democracy work for the people in real sense.
- Public authorities defined under this law are required to reply expeditiously or within thirty days of the request.
- The law also mandates every public authority to computerise their records for wide dissemination and proactively certain categories of information so that citizens need minimum recourse to request for information formally.
- Cabinet papers are exempted from RTI until decision has been implemented. However, discussions within Cabinet are never disclosed under RTI.
- Only citizens of India have the right to seek information under the provisions of RTI Act, 2005 and NRIs are not eligible to file RTI applications.

2. Govt. defends electoral bonds scheme in SC

Context

- Electoral bonds have been introduced to promote transparency in funding and donation received by political parties, the government told the Supreme Court.
- The government was responding to a petition filed by the CPI(M) and party secretary general Sitaram Yechury to strike down the 'Electoral Bond Scheme 2018' and amendments in the Finance Act, 2017, which allow for "unlimited donations from individuals and foreign companies to political parties without any record of the sources of funding."

What is Electoral Bonds Scheme?

- The electoral bonds scheme was announced in Union Budget 2017-18 with an aim for increasing transparency in political funding.
- It makes India first country in the world to have such unique bonds for electoral funding.
- These bonds are bearer instrument in nature of promissory note and interest-free banking instrument.
- It aims at rooting out current system of largely anonymous cash donations made to political parties which lead to generation of black money in the economy.
- These electoral bonds can be bought for any value in multiples of Rs 1,000, Rs 10,000, Rs 1 lakh, Rs 10 lakh or Rs 1 crore after fulfilling all existing Know Your Customer (KYC) norms and making payments from bank account.
- It will not carry name of payee. The bond deposited by any eligible political party to its account shall be credited on the same day.
- Electoral Bonds are valid for fifteen calendar days from the date of issue. No payment shall be made to any payee political party if bond is deposited after expiry of validity period.
- Eligible political parties can encash electoral bonds only through their bank accounts. Electoral Bonds may be purchased by only citizen of India. An individual can buy Electoral Bonds, either singly or jointly with other individuals.
- Only registered political parties, that have secured not less than 1% of votes polled in last election of Lok Sabha or legislative assembly of state, will be eligible to receive electoral bonds.
- The cash donation has been capped at Rs. 2000 and beyond that donations are via electoral bonds.

C. GS3 Related

Category:ENVIRONMENT

1. Bannerghatta eco-sensitive zone curtailed

Context

- The Bannerghatta National Park's Eco-Sensitive Zone (ESZ), which provides a regulated buffer zone around protected areas, will remain at 168.84 sqkm despite thousands of citizens objecting to the reduction of nearly 100 sqkm as compared to the original proposal.

Details of the changes

- In the 33rd ESZ Expert Committee meeting of the Ministry of Environment and Forests held on February 28, members recommended finalisation after 'detailed deliberations' of the November 5 draft notification which declared an ESZ area of 168.84 sqkm around the BNP.
- This represents a 37% reduction from the first draft notification issued in 2016 which had marked an ESZ area of 268.9 sqkm.
- The new ESZ will range from 100 metres (towards Bengaluru city) to 1 kilometre (in Ramanagaram district) from the periphery of the protected area.
- The ESZ Committee estimates that between 150 and 200 elephants were observed at the BNP. During the meeting, members of the expert committee discussed extending the area of the proposed ESZ towards Bengaluru city.
- "However, the State representative cited that it will be difficult to further expand the ESZ due to thick habitation in adjoining areas," as per the minutes of the meeting which were made public recently. Thousands of comments were sent to the MoEF from the city after the draft notification was published in November.

What are Eco-Sensitive Zones (ESZs)?

- Eco-Sensitive Zones or Ecologically Fragile Areas are areas within 10 kms around Protected Areas, National Parks and Wildlife Sanctuaries.
- ESZs are notified by MoEFCC, Government of India under Environment Protection Act 1986.
- In case of places with sensitive corridors, connectivity and ecologically important patches, crucial for landscape linkage, even area beyond 10 km width can also be included in the eco-sensitive zone.
- The basic aim is to regulate certain activities around National Parks and Wildlife Sanctuaries so as to minimise the negative impacts of such activities on the fragile ecosystem encompassing the protected areas.

Activities in ESZs

- Prohibited activities: Commercial mining, saw mills, industries causing pollution (air, water, soil, noise etc), establishment of major hydroelectric projects (HEP), commercial use of wood, Tourism activities like hot-air balloons over the National Park, discharge of effluents or any solid waste or production of hazardous substances.
- Regulated activities: Felling of trees, establishment of hotels and resorts, commercial use of natural water, erection of electrical cables, drastic change of agriculture system, e.g. adoption of heavy technology, pesticides etc, widening of roads.
- Permitted activities: Ongoing agricultural or horticultural practices, rainwater harvesting, organic farming, use of renewable energy sources, adoption of green technology for all activities.

Significance of ESZs

- To minimise the impact of urbanisation and other developmental activities, areas adjacent to protected areas have been declared as Eco-Sensitive Zones.
- The purpose of declaring eco-sensitive zones around protected areas is for creating some kind of a 'Shock Absorber' for the protected area.
- They also act as a transition zone from areas of high protection to areas involving lesser protection.
- ESZs help in in-situ conservation, which deals with conservation of an endangered species in its natural habitat, for example the conservation of the One-horned Rhino of Kaziranga National Park, Assam.
- Eco-Sensitive Zones minimise forest depletion and man-animal conflict. The protected areas are based on the core and buffer model of management, through which local area communities are also protected and benefitted.

D. GS4 Related

Nothing here today!!!

E. Editorials

Category: POLITY AND GOVERNANCE

1. Will a court-mandated mediation on Ayodhya solve the issue?

Will a court-mandated mediation on Ayodhya solve the issue?

Note to Students:

With the development of the Court-mandated mediation to resolve the dispute over the site at Ayodhya, many perspectives have been featured in the Hindu newspaper. This analysis takes into account three articles, namely, *"Strange turn"* that was published in the Hindu on the 9th of March, 2019, *"A compromise is still possible"* that was published in the Hindu on the 12th of March, 2019 and *"Will a court-mandated mediation on Ayodhya solve the issue?",* published by the Hindu on the 15th of March, 2019.

The article, *"Will a court-mandated mediation on Ayodhya solve the issue?"* contains excerpts from a recent interview of Sukumar Muralidharan (who teaches journalism at the O.P. Jindal Global University, Sonepat), and Sanjay Hegde (Advocate, Supreme Court of India). We present the excerpts of that interview as well in this editorial analysis.

A Brief Look at History:

- The dispute over the site at Ayodhya, where a 16th century mosque stood until it was torn down by Hindutva fanatics in December 1992, has remained intractable since 1949.
- ***After the demolition of the Babri Masjid, the President referred to the Supreme Court the question whether there was a temple to Lord Ram before the mosque was built at the site.***
- The court, in a landmark decision in 1994, declined to go into that question.
- More importantly, it revived the title suits and, thereby, restored due process and the rule of law.

Mediation: A Welcome Option?

- Experts have opined that mediation, especially when it is at the instance of a court, is a welcome option for those embroiled in protracted civil disputes.
- ***A compromise could indeed be preferable to an order that may leave one side aggrieved.*** However, it is questionable whether this principle can be applied to all disputes and in all situations.
- A welcome feature of the court-mandated mediation attempt is that it will not consume much time; the same eight weeks are needed for preparation for the final hearing.
- The confidentiality rule will be helpful as none would want the atmosphere to be vitiated by premature disclosures when the country is in election mode.
- However, ***the inclusion of Sri Sri Ravi Shankar as one of the mediators is controversial.*** In the past, he has made remarks to the effect that Muslims ought to give up their claim and that the failure to find a negotiated settlement will result in “civil war”.

Views expressed on the recent Supreme Court ruling:

- The recent order of the Honourable Supreme Court, appointing three mediators to find a solution to the Ram Janmabhoomi-Babri Masjid dispute is quite strange and incongruous, given that all such previous attempts have ended in failure.
- Further, the case is ripe for a final hearing, and not all parties favoured mediation.
- Experts have opined that the present attempt by the Supreme Court to give mediation a chance within a narrow window of eight weeks goes against the spirit of the 1994 decision.
- After all, it was that verdict that made possible the 2010 judgment of the Allahabad High Court, which favoured a three-way split of the site among Ram Lalla, the Sunni Wakf Board and the Nirmohi Akhara, which is under appeal.

A Closer Look:

- Experts have opined that the Supreme Court’s attempt to maintain Hindu-Muslim harmony through a mediated settlement of the long-standing Babri Masjid dispute ***deserves appreciation.***
- But it has raised a couple of concerns too. One relates to the choice of a mediator, and the other to the efficacy of mediation at this stage.

Neutrality of the Mediator:

- By definition, a mediator is a neutral third party who facilitates a negotiated settlement between adversarial contenders.
- Unfortunately, the neutrality of one of the three court-appointed mediators, Sri Sri Ravi Shankar, has come into question as some of his public pronouncements in the recent past appear to negate his supposed disinterestedness.
- A year ago, in an open letter to the All India Muslim Personal Law Board (AIMPLB), Sri Sri Ravi Shankar had said: “People from both communities who are adamant on following the court’s verdict are also driving the issue to a situation of defeat.” The “best solution”, therefore, is “an out-of-court settlement in which the Muslim bodies come forward and gift one acre of land to the Hindus who in turn will gift five acres of land nearby to the Muslims, to build a better mosque.”

- He even told Muslims that giving up their claim to the disputed property did not amount to "surrendering this land to the people who demolished the Babri Masjid or to a particular organisation. On the contrary, they are gifting it to the people of India".
- Apart from the fact that this position betrays Sri Sri Ravi Shankar's bias in favour of disputants belonging to one religion, it is difficult to understand the justifiability of treating a gift to Hindus as a gift to the people of India. Does he regard only Hindus as "the people of India" to the exclusion of other communities?
- Nonetheless, it stands to reason that Muslims would be in a position to gift the land only when their ownership of it is confirmed by the Supreme Court. If Muslims lose the case, the entire land would come under the control of Hindus and the question of Muslims giving up their claim would then be rendered redundant.
- But the Art of Living founder thinks that even a Hindu victory would not be conducive to peace. It could foster Muslim resentment and may "lead to riots throughout the country", he told the AIMPLB, thereby insinuating that Muslims are violent. He seems to be unaware that Muslims have agreed to abide by the court verdict whichever way it goes. ***Now that he has been made a mediator, Sri Sri Ravi Shankar must clarify if he still stands by his statements.***

Advisability of mediation:

- ***Despite Hindu groups opposing a negotiated settlement, the Supreme Court made it clear that an attempt should be made to settle the dispute by mediation.***
- The Honourable Supreme Court of India overruled their objections by invoking Section 89 of the Code of Civil Procedure (CPC).
- Section 89 of the Code of Civil Procedure (CPC) allows the court to refer any dispute to one of the four modes of non-adjudicatory resolution processes: namely, arbitration, conciliation, judicial settlement (including settlement through Lok Adalat), or mediation. *In this case, the court opted for mediation.*
- This was again opposed on the basis of a two-judge Supreme Court judgment in ***Afcons infrastructure and Ors. v. Cherian Verkay Construction and Ors (2010)***. It illustratively explained that mediation cannot be done in a representative suit which involves public interest or the interest of large number of persons who are not represented in the court.
- However, the five-Judge bench led by Chief Justice of India Ranjan Gogoi differed. Citing the provisions of Order 1 rule 8 CPC and Order XXIII rule 3-B, it stated that there was ***no legal impediment to making a reference to mediation.***
- Whether the said CPC provisions would apply in the event parties arrive at a settlement in the mediation proceedings was left open to be decided later.
- Also, what the Supreme Court had frowned upon in Afcons was a civil court exercising power under Section 89 of the Code to refer a suit for "arbitration" without the concurrence of all the parties to the suit.
- ***But the court is free, the Supreme Court had said, to consider and decide upon any non-adjudicatory resolution method other than arbitration such as judicial settlement or mediation.***

An unresolved question:

- Questions still remain. If the Hindu groups continue to reject mediation, how will this dispute be resolved? And if they agree to negotiate, will the compromise they reach with Muslims be binding on all Hindus in India?
- Even Justice D.Y. Chandrachud, who conceded that a negotiated settlement is most 'desirable' in this case, was initially not sure if such a settlement could bind millions of Hindus and Muslims as the issue is not an ordinary dispute between two private parties.

A Win-win situation:

- If examined closely, it would be seen that the Babri Masjid dispute is not really an explosive issue affecting the religious sentiments of millions of Hindus and Muslims as has been portrayed.
- This may have been the case in the initial years after the illegal demolition of the Babri Masjid.
- The fact is, there is no evidence to show that the handful of parties claiming to represent Hindus and Muslims in this case are fully backed by their respective communities. In other words, ***the Babri Masjid/Ram Janmabhoomi imbroglio is no longer a life-affirming issue for the Indian masses,***

who are more concerned about jobs, poverty alleviation and access to affordable housing, health care and education.

- That said, both communities cannot afford to let the Ayodhya dispute simmer forever and stall the country's socio-economic growth.
- The main reason for the unrelenting Muslim attitude is the fear that if they give up their claim on the Babri Masjid, Hindu groups would ask for other "disputed" mosques to be handed over.

Excerpts from a recent interview of Sukumar Muralidharan and Sanjay Hegde:

Is mediation viable at this stage of the litigation, when the Supreme Court is set to begin the final hearing in the Ayodhya dispute? Is it advisable and desirable?

Sukumar Muralidharan, weighed in with his arguments.

- I think the Supreme Court has stepped in as a problem-solver at numerous stages of this dispute over the years.
- And sometimes it has declined to play that role — instances being as far back as in 1989, when it was asked to put a stop to the Shila Pujans that were going on all over the country and causing a lot of communal violence, and it declined to do so; and then again in 1992, when it was asked to ensure the safety of the structure when the Vishva Hindu Parishad was planning its kar seva on December 6, 1992.
- Of course, it did issue a writ and asked for guarantees to the safety of the structure. The rest is history.
- Then, the reference was made to determine whether there was a Hindu religious structure under the mosque prior to the mosque being built.
- The Supreme Court declined to hear it but held that the acquisition of the land was good in law. And that a mosque was not part of essential religious practice for the Islamic faith and, hence, there was no violation of religious freedom in the acquisition of that land. It then reverted the case to the Lucknow Bench for a determination of the title suit.
- So, that's what we had coming out in 2010. This mediation decision comes out of an appeal against the Lucknow Bench's decision. So, I think this fits in with the normal course of adjudication in the matter. The mediation decision is the court, in a manner of speaking, abdicating its responsibility.

Sanjay Hegde, weighed in with his arguments.

- Any court always has the option of asking parties to mediate before it proceeds to adjudicate. That is laid down in the Civil Procedure Code.
- This is a kind of case where even if there is adjudication, the court is not particularly sure as to whether its verdict would be honoured if it is unpopular on one side or the other.
- However, the court decided to be proactive, not in the sense of abdicating its jurisdiction, but is aware now that mediation itself is a specialised process. It is not exactly in the sense of a negotiating or bargaining kind of situation.
- Mediation is something much deeper and the court wants to see whether that process with the trained mediator plus two others who are of repute within the community, both legally as well as in terms of a broader religious appeal… they've tried to get some kind of representational team together. And see where the process goes.

There is a small window of eight weeks for mediation. Would it have been better if the mediation process was given more time, or if it was open-ended so that there could be a more viable process?

Sanjay Hegde, weighed in with his arguments.

If you give too much time, nothing really happens. So, having a deadline also concentrates parties' minds wonderfully, inasmuch as there is time pressure to arrive at a solution.

Sukumar Muralidharan, weighed in with his arguments.

My worry is that the court has opted for a deadline that just puts it over the threshold of the electoral cycle, so that it does not get affected by the heat and dust of the election campaign. Now, it may be prudent to have done this, but I don't see that the court should really be allowing this political scenario to impinge upon its decision. Now, once the mediation begins, who will the mediators involve in the process? There are a number of litigants involved. The original litigants are the Nirmohi Akhara, the Wakf Board, and there is Ram Lalla, the deity. But the VHP is creating trouble on the streets, and they have become, by virtue of their coercive politics, litigants in the

problem. So, who are going to be part of the mediation? It's going to be a tricky process because whoever is left out of the mediation process can move out to the streets with their grievance, and whip up public fury.

The suits are representative in nature with the two communities on either side of the dispute. It is said it will be difficult to enforce a decree of the court, if one party expresses misgivings and the other party is happy about it. Does this not apply to the mediation process also?

Sanjay Hegde, weighed in with his arguments.

A negotiated settlement will also ultimately end up in a decree of the court. What will happen on the enforcement of the decree is another question. Right now, we are wondering whether the decree can be arrived at by consensus among the parties to the litigation, or whether the decree has to be arrived at only through the adjudicatory route.

Do you agree with the basic formulation — that this is a matter concerning faith and not merely the civil rights of the respective parties?

Sukumar Muralidharan, weighed in with his arguments.

There's so much of politics riding on this. They [the Muslim parties] say they are willing to cede the land if it is proven that it was taken by fraud or by force from the other side. And the other side is arguing, 'No, it is a matter of faith, and we cannot negotiate, or have a judicial determination on a matter of faith.' I don't see any reason why they will retreat from that really hard-line position now, without risk of loss of face, since it has become such a high-stakes issue politically. The judiciary could have just proceeded to take the bull by the horn, rather than bring in the question of faith and the emotion.

Do you get the sense that the legal issues are secondary?

Sanjay Hegde, weighed in with his arguments.

Politically, it has always been framed like that. How does the judiciary handle it? The judiciary could have well said, 'Look there are no manageable standards,' and declined to get into the dispute altogether. Or, it could have said, 'We have no space for faith and belief out here. Let us go simply by the law as laid down.' The mosque has stood there for nearly 500 years, and we all saw this go down in 1992. How does, in the face of all that evidence, one side prove title?

There are two basic emotions out here. One emotion on the Hindu side is, 'We have suffered religious hurt and we have lived with it through 500 years. This may not be a Hindu state, but it is a Hindu majority country. The wishes of the majority on this thing must prevail.' On the Muslim side, it is this emotion that, 'Look, we are not intruders. These are things that have happened so many years ago.' These underlying emotions, if the multi-faith mediation team could address somewhere, and get people to understand that irrespective of faith, irrespective of the past… this country needs to move on ahead.

It is argued that for Hindus it is a matter of faith as far as the spot is concerned, whereas the right of worship of Muslims can be exercised anywhere. The idea behind the mediation seems to be to get the Muslim side to give up their claim over the site, and instead have a mosque elsewhere. Against this backdrop, it is interesting that the Sunni Wakf Board and the All India Muslim Personal Law Board were open to the idea of mediation, whereas the three Hindu parties were not in favour of it.

You are right that the Muslim side in a way perceives itself to be the weaker side, and it had always said whatever the court orders, it will abide by it. The thing on the Hindu side is that after all this is god's property. There is almost a sense of crusade out there and we cannot give up anything, having started the fight in god's name. At the end of the day, Hindus and Muslims are all part of India.

Sukumar Muralidharan, weighed in with his arguments.

We should avoid any impression that the institutions of our governance process are skewing the whole balance in favour of favour of majoritarian coercive politics. Because, I think the people of the minority faith have a sense of grievance that they have not been given a fair deal in this process. In fact, even the ruling that the acquisition of land was legitimate because the place of worship is not an essential part of the religious faith of Muslims — that also has caused some disquiet… but now they're even being restrained from even offering prayers in public places.

Would you like to comment on the choice of the mediators?

Sanjay Hegde, weighed in with his arguments.

Well, about two choices nobody has any doubts: Sriram Panchu and Justice Kalifulla. The question is about Sri Sri Ravi Shankar. The point is that you needed somebody on the Hindu side who could possibly sell a settlement to the larger Hindu community. Therefore it did make sense to bring in a holy man. But why this particular godman? That is a choice left to individual judges who can constitute the Bench.

Sukumar Muralidharan, weighed in with his arguments.

Well, he's on record saying Muslims should give up their claim to the title of the land and also threatening dire consequences if that does not happen. So, that gives him not exactly the best claim to being a fair mediator to this process. So before the task of achieving a mediated outcome between the different litigants to this process, I think the mediators have to achieve consensus amongst themselves about how they're going to approach this. And given the composition of this team, I think that is not a trivial challenge.

What do you think will be the larger implications for constitutional values like the rule of law and secularism, when this litigation reaches either an adjudicated or negotiated settlement?

Sanjay Hegde, weighed in with his arguments. Quite frankly, I think we, as a democracy, gave up our belief in the rule of law on December 6, 1992. What we are trying to do is to snatch back whatever remains; to rebuild it, because ultimately, let me put it this way and this is my question to even those who propound a Hindu Rashtra: Even a Hindu Rashtra can't work without the rule of law. And if you do something which is out of the law, and then you try to retrospectively make it right, it just doesn't work.

Sukumar Muralidharan, weighed in with his arguments.

That is the key question going forward. Because once you have destroyed the faith that people of different religious convictions might have in the neutrality of the governance process, it is very difficult to retrieve that. Over the last 30 years, the balance has shifted too far in favour of majoritarian assertion and we've allowed a number of political campaigns to ride on this issue, which should have been settled right at the moment it was born. That default over 30 years has allowed this issue to become a political matter on which very emotive campaigns were mounted by both sides. The damage has been very deep and it'll be very lasting unless we sort things out very quickly.

2. An abhorrent and unjust device

Note to Students:

- The issue surrounding capital punishment has been in the news for some time now.
- Here we cover this issues keeping two articles in mind that have been published by the Hindu over the past week, namely- "Back to life" (published on the 7th of March, 2019), and "An abhorrent and unjust device" (published on the 15th of March, 2019).
- We at BYJU'S have covered a detailed video based analysis on the topic of capital punishment. The link is as below:

Larger Background:

The Criminal Law (Amendment) Bill, 2018

- The Bill amends the IPC, 1860 to increase the minimum punishment for rape of women from seven years to ten years.
- Rape and gang rape of girls below the age of 12 years will carry minimum imprisonment of twenty years and is extendable to life imprisonment or death.
- Rape of girls below the age of 16 years is punishable with imprisonment of twenty years or life imprisonment.
- The Bill amends the IPC, 1860 to increase the punishment for rape of girls. However, punishment for rape of boys has remained unchanged. This has resulted in greater difference in the quantum of punishment for rape of minor boys and girls.
- The Bill imposes death penalty for rape of girls below the age of 12 years.
- It is important to note that there are differing views on death penalty for rape.
- Some argue that death penalty has a deterrence effect on the crime and therefore helps prevent it.
- Others argue that death penalty would be disproportionate punishment for rape.

Editorial Analysis:

- It is important to note that on March 5, 2019, a three-judge bench of the Supreme Court delivered verdicts in three different death penalty cases.
- As a matter of fact, in two of those the court entirely exonerated the suspects, while in the third it not only found the accused guilty of murder, but also deserving of capital punishment.
- Experts opine that when individually read, the judgments typify the deep penological confusion that pervades India's criminal justice system.
- ***Collectively, the cases demonstrate how arbitrary the death penalty is, how its application is mired by a belief in conflicting values, and how the fundamental requirement of precision in criminal law has been replaced by a rhetorical cry for avenging crime by invoking the "collective conscience" of society.***

A Closer Look at Some of the Cases:

1. ***Digamber Vaishnav v. State of Chhattisgarh***

- In the first of the cases, ***Digamber Vaishnav v. State of Chhattisgarh***, two persons were convicted of murdering five women and were sentenced to death in 2014.
- A year later, the Chhattisgarh High Court affirmed these sentences.
- But the chief testimony, which formed the backbone of the prosecution's case, was that of a nine-year-old child, who was, shockingly, not even an eye-witness to the crime.
- This, the court therefore ruled, was effectively a conviction premised on surmise and conjecture.

2. ***Ankush Maruti Shinde v. State of Maharashtra***

- Some experts opine that the Ankush Maruti Shinde v. State of Maharashtra, the second of the cases, saw a gut-wrenching series of events being reduced to macabre farce.
- In 2006, a trial court found six persons guilty of rape and murder and sentenced each of them to death.
- A year later, the Bombay High Court confirmed the finding of guilt, but commuted the sentences imposed on three of the individuals to life imprisonment.
- However, in 2009, the Supreme Court not only dismissed the appeals filed by those sentenced to death, but also, astonishingly, enhanced the penalties of the three persons whose sentences had been commuted by ordering that they too be punished with death.
- In doing so, the court relied on a 1996 verdict, in Ravji v. State of Rajasthan, where it had ruled that in ***determining whether to award the death penalty "it is the nature and gravity of the crime" alone that demand consideration.***
- Although in May 2009, the Supreme Court had declared its earlier ruling in Ravji incorrect, by holding that even in those cases where the crime is brutal and heinous the criminal's antecedents, including his economic and social background, must have a bearing on the award of the sentence, it took until October 2018 for the court to recall its order sentencing the six persons to death.
- During this time, as the court records, "The accused remained under constant stress and in the perpetual fear of death." What is more, one of them, who was later found to be a juvenile at the time when the alleged crime was committed, was kept in solitary confinement.
- He was not allowed to meet any of the other prisoners and was only allowed an occasional meeting with his mother.
- For their troubles — for having spent more than a decade on death row despite having committed no crime — the bench ordered that the state pay each of them a sum of ₹5 lakh.

Significance of this Case:

- The case, in itself, holds a strong argument against the retention of the death penalty on the statute book.
- Had the sentence against these six been carried out, the truth would have been buried with them.
- It is important to note that in recent years, the Supreme Court has been limiting the scope for resorting to the death penalty by a series of judgments that recognise the rights of death row convicts.
- As a matter of fact, a few years ago, it ruled that review petitions in cases of death sentence should be heard in open court.

- In a country notorious for "the law's delay", it is inevitable that the long wait on death row, either for a review hearing or for the disposal of a mercy petition, could ultimately redound to the benefit of the convicts and their death sentences altered to life terms.

A 'rarest of rare' case: A Perspective

- Experts opine that if these decisions had shown us anything, it was that the judicial process is far from inerrant.
- However, the collective conscience of society, represented through the court's capital punishment jurisprudence, it appears, is still alive and kicking.
- For in the third of the cases, in ***Khushwinder Singh v. State of Punjab***, it not only affirmed the conviction of the accused, on charges of murdering six members of a family, but also gave its imprimatur to the award of the death penalty.
- The murders, the judgment holds, were "diabolical and dastardly" and the case fell into the "rarest of rare" categories where "there is no alternative punishment suitable, except the death sentence".

The "rarest of rare doctrine": A Perspective

- The rarest of rare doctrine has its origins in ***Bachan Singh v. State of Punjab (1980)***.
- There, the court declared ***Section 302 of the Indian Penal Code***, which prescribes the death penalty for murder, as constitutionally valid, but bounded its limits by holding that the punishment can only be prescribed in the rarest of rare cases.
- Since then, the court has repeatedly cautioned that capital punishment ought to only be decreed when the state can clearly establish that a convict is incapable of being reformed and rehabilitated.
- However, in Khushwinder Singh, the court does not place on record any such piece of evidence that the state was called on to produce.
- Indeed, the court does not so much as attempt to answer whether the accused was, in fact, capable of reformation or not.
- Instead, it merely endorses the death sentence by holding that there simply were no mitigating circumstances warranting an alternative penalty.

Victims of the system

- Experts have opined that capital punishment serves no legitimate penological purpose.
- They further assert that there's almost no empirical evidence available showing that the death penalty actually deters crime.
- If anything, independent studies have repeatedly shown the converse to be true.
- In the U.S., for instance, States that employ capital punishment have had drastically higher rates of homicide in comparison with those States where the death penalty is no longer engaged.
- In India, evidence also points to a disproportionate application of the sentence, with the most economically and socially marginalised amongst us suffering the most.
- ***The Death Penalty India Report (DPIR),*** released on May 6, 2016, by Project 39A of the National Law University, Delhi, for example, shows that 74% of prisoners on death row, at the time of the study, were economically vulnerable, and 63% were either the primary or sole earners in their families.
- Further, more than 60% of those sentenced to death had not completed their secondary school education, and 23% had never attended school, a factor which, as the report states, "points to the alienation that they would experience from the legal process, in terms of the extent to which they are able to understand the case against them and engage with the criminal justice system."
- Just as distressingly, 76% of those sentenced to death belonged to backward classes and religious minorities, including all 12 female prisoners.
- Taking these factors into account, experts point out that the retention of capital punishment utterly undermines the country's moral foundations.
- Over the course of the last decade, the Supreme Court may well have expanded the rights of death row prisoners: delays by the President in disposing of mercy petitions now constitute a valid ground for commutation; review petitions filed by death row convicts now have to be mandatorily heard in open court.

- However, as the judgments delivered on March 5, 2019 reveal, the very preservation of the death penalty creates iniquitous results.
- ***Cases such as Ankush Maruti Shinde, where the accused, as the judgment records, were very poor labourers, "nomadic tribes coming from the lower strata of the society," ought to make it evident that the death penalty is an abhorrent and unjust device.***
- It is important to note that the Constitution of India promises to every person equality before the law. However, some experts have asserted that capital punishment renders this pledge hollow.

Concluding Remarks:

- Lastly, in a system that many say favours the affluent and the influential, the likelihood of institutional bias against the socially and economically weak is quite high.
- Also, there is a perception that the way the "rarest of rare cases" norm is applied by various courts is arbitrary and inconsistent.
- The clamour for justice often becomes a call for the maximum sentence. In that sense, every death sentence throws up a moral dilemma on whether the truth has been sufficiently established. The only way out of this is the abolition of the death penalty altogether.

Category: INTERNATIONAL RELATIONS

1. China's block

Why in the news?

- China recently decided to block the listing of Jaish-e-Mohammad chief Masood Azhar as a global terrorist at the UN Security Council.

Editorial Analysis:

- China's decision to block the listing of Jaish-e-Mohammad chief Masood Azhar as a global terrorist at the UN Security Council is both a setback to India's post-Pulwama diplomatic strategy and a reality check on ties with China at present.
- After the February 14 attack, claimed by the JeM, the government of India had made the listing of Azhar a focus in its diplomatic efforts.
- It reached out to several governments, and shared a dossier on Azhar with each member of the Security Council, who are all members of the 1267 ISIL and al-Qaeda sanctions committee.
- As a matter of fact, ***a special effort was made with Beijing, which has blocked the Azhar listing in the past, including just after the 2008 Mumbai attacks.***
- From 2016 to 2018, India's proposals to list Azhar, with evidence of JeM involvement in the Pathankot airbase attack, were also foiled by China, which placed holds on the listing, and then vetoed it.
- The vetoes came despite the fact that the JeM is banned, and in the UNSC listing it is noted that Azhar, as its leader and founder, accepted funds from Osama bin Laden.

China's regrettable stand:

- China, as the one country that has refused to allow Azhar's name on the list, is well aware of the evidence against him, but is not ready to withdraw its objections.
- It is clear that despite India-China relations improving after the Wuhan summit in April 2018, China is unwilling to align itself with India on its concerns on cross-border terrorism emanating from Pakistan.
- China's stand is regrettable and condemnable, and it has been consistent on this issue.

The Way Forward: What India should consider

- India must now consider whether it wishes to accept this as a fait accompli, or confront Beijing to try to persuade it to change its stand by means of incentives or coercion.
- This is a challenge, as any kind of concerted international pressure from the Western countries in this regard has in the past only served to be counterproductive.
- It is also unlikely that the suggestions being offered by some political groups, of cutting imports from China and other punitive actions, will yield much.

- The government may be more successful if it identifies the incentives it can offer China in the next few months to review its position.
- While some of those incentives would be bilateral, the Chinese spokesperson's hint that dialogue between New Delhi and Islamabad, and even possible "triangular" talks including Beijing, is indicative of China's thinking.
- ***Experts opine that the government of India must also not lose sight of the bigger picture: that the UNSC cannot enforce its own listings, and other leaders who have been sanctioned in the past remain free and unencumbered.***
- In conclusion, it is important to note that while listing Azhar at the UNSC is an unfinished task, the larger issue remains: to ensure that Pakistan takes substantive action against Azhar, the JeM and other terror groups that are threatening India.
- China, with its economic and strategic leverage with Pakistan, may be better-placed to help in this matter.

F. Tidbits

1. 23 Opposition parties move court on EVMs and VVPAT

- In a major show of pre-poll strength, 23 Opposition parties moved the Supreme Court on Thursday, demanding the random verification of at least 50% Electronic Voting Machines (EVM) using Voter Verifiable Paper Audit Trail (VVPAT) in every Assembly segment or constituency.
- They further sought to quash an Election Commission guideline that verification should be conducted "only for VVPAT paper slips of one randomly selected polling station of an Assembly constituency in case of election to State Legislative Assembly and each Assembly segment in case of election to the House of the People."
- The petition, led by presidents and leaders of 23 different national and regional political parties — six out of the seven national parties, and 17 regional parties — said they electorally represent about 70%-75% of the people of India.
- The petition said free and fair elections was part of the basic structure of the Indian Constitution. It quoted the apex court's judgment in the Dr. Subramanian Swamy case in 2013, which held that the paper trail for EVMs was an indispensable requirement of free and fair elections, thereby making VVPAT inherent in and intrinsic to the very basic structure.
- The ECI guideline hits at the basic structure of the Constitution by making VVPAT "completely ineffective and merely ornamental in nature," the petition said.

2. Enforce ban on surrogate liquor ads, HC tells U.P.

- The High Court has ordered the Uttar Pradesh government and its Excise Department to enforce the ban on surrogate advertisement of liquor on television, cinema halls, newspapers and other mass media.
- Surrogate advertising is a form of advertising which is used to promote banned products, like cigarettes and alcohol, in the disguise of another product.
- A Bench of Justices Sudhir Agarwal and Ajit Kumar passed the order on a plea by the president of a voluntary organisation 'Struggle Against Pain'.
- The Bench also directed the excise and police departments to take appropriate action to ensure prohibition of any such 'surrogate advertisements'.
- The petitioner sought enforcement of the ban, annexing with his petition various surrogate advertisements of liquor in magazines and newspapers.
- The petition pointed out that though the advertisements were ostensibly for publicity of music CDs and drinking glasses, the name of these products were written in very small font and were hardly visible.
- The advertisement, however, carried bold logos of various popular brands of liquor without using the word "liquor" to escape punishment under the law, the petition pointed out.
- The petitioner alleged that the liquor manufacturers and their vending firms spend huge amount of money on these advertisements to encourage the sale and consumption of liquor and succeed in their design.
- Some liquor companies which were made parties to the petition, defended the practice by claiming that they also produce other products like soda and glasses under the same brand name and the law does not ban advertisement of such products.

3. Don’t suppress data, economists tell govt.

- A group of 108 economists and social scientists working around the world, have issued an appeal to convince the Indian government to stop suppressing uncomfortable data, restore access to public statistics and re-establish the independence and integrity of institutions.
- “For decades, India’s statistical machinery enjoyed a high level of reputation for the integrity of the data it produced on a range of economic and social parameters,” the economists from institutions ranging from the Massachusetts Institute of Technology, University of California, Berkeley and Harvard University to Jawaharlal Nehru University, Delhi University and the Indian Statistical Institute, wrote in their appeal.
- The economists termed economic statistics as a “public good” that was vital for policy-making and informed public discourse in democracies where citizens seek accountability from their governments.
- The economists cited the government’s GDP data as one key troublesome area. First, they said that the figures released in 2015 with the new base year of 2011-12 were problematic as they “did not square with related macro-aggregates.”
- Thereafter, the economists said, each successive GDP data release had come with associated problems, especially the latest data for the demonetisation year of 2016-17, which revised growth upwards by 1.1 percentage points to 8.2%.
- Further, they said that the treatment of the back series data, and the involvement of the NITI Aayog in the process did “great damage to the institutional integrity of the autonomous statistical bodies”.
- Finally, they cited the controversy surrounding the employment data that erupted recently. “In fact, any statistics that cast an iota of doubt on the achievement of the government seem to get revised or suppressed on the basis of some questionable methodology,” they said.

G. PRELIMS FACTS

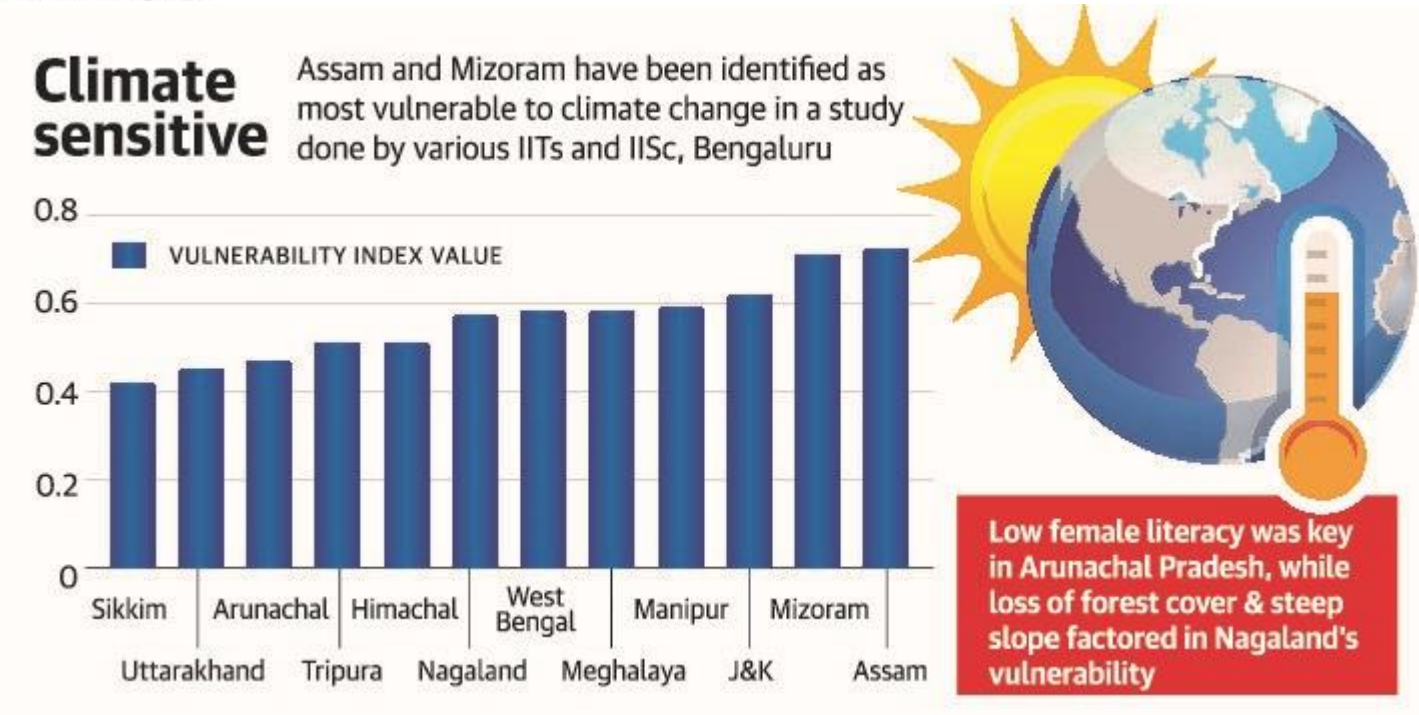
1. A climate vulnerability index for India on the anvil

Context

- The Department of Science and Technology (DST) will be commissioning a study to assess the climate risks faced by States in India. This follows an assessment of the global warming risks faced by 12 Himalayan States — and discussed at last year’s U.N. climate change conference in Poland — that found States such as Assam, Arunachal Pradesh and Uttarakhand vulnerable to climate change.

Details of the initiative

- Last year the Indian Institutes of Technology (IIT) at Mandi and Guwahati, and the Indian Institute of Science (IISc), Bengaluru, coordinated with State authorities in Assam, Manipur, Meghalaya, Mizoram, Nagaland, Tripura, Arunachal Pradesh, Sikkim, the hill districts of West Bengal, Himachal Pradesh, Uttarakhand and Jammu and Kashmir, to evolve a common methodology, and determine how districts there are equipped to deal with the vagaries of climate change.
- The researchers prepared a ‘vulnerability index’ of each of these States based on district-level data. Vulnerability would be a measure of the inherent risks a district faces, primarily by virtue of its geography and socio-economic situation.



- The scientists conducted workshops with the States and culled eight key parameters on the basis of which a vulnerability score could be generated. They included: percentage of area in districts under forests, yield variability of food grain, population density, female literacy rate, infant mortality rate, percentage of population below poverty line, average man-days under MGNREGA (Mahatma Gandhi National Rural Employment Guarantee Act), and the area under slope > 30%.
- On a scale ranging 0-1, 1 indicating the highest possible level of vulnerability, at the top of the scale were Assam with a score of 0.72 and Mizoram at 0.71, whereas Sikkim, with an index score of 0.42 was relatively less vulnerable.
- The over-arching aim of the analysis was to give actionable inputs to States.

2. Absentee ballot

- This refers to a vote cast by someone who is unable to go to the polling station. The system is designed to increase voter turnout.
- In some countries, the voter is required to give a reason for not going to the polling station, before participating in an absentee ballot.
- In India, a postal ballot is available to only some citizens. The Representation of the People Act, 1950 allows heads of states and those serving in the armed forces to vote through postal means.
- The Lok Sabha recently passed a Bill to allow proxy voting for NRIs. However, domestic migrants and absentee voters in India cannot cast postal votes.

H. UPSC Prelims Practice Questions

Question 1.Consider the following statements regarding Pradhan Mantri Jan Arogya

Yojana (PM-JAY):

1. It seeks to achieve Sustainable Development Goal – 3 (SDG3)
2. Pradhan Mantri Jan Arogya Yojana (PM-JAY) will provide financial protection to poors as per the latest Socio-Economic Caste Census (SECC) data
3. PM-JAY will cover medical and hospitalization expenses for primary care procedures

Which of the above statement(s) is/ are correct?
(a) Only 1 and 2
(b) Only 2 and 3

(c) Only 1 and 3
(d) All of the above

ANSWER (a)

Explanation: Under the ambit of Ayushman Bharat, a Pradhan Mantri Jan Arogya Yojana (PM-JAY) to reduce the financial burden on poor and vulnerable groups arising out of catastrophic hospital episodes and ensure their access to quality health services was conceived. PM-JAY seeks to accelerate India's progress towards achievement of Universal Health Coverage (UHC) and Sustainable Development Goal – 3 (SDG3). PM-JAY will cover medical and hospitalization expenses for almost all secondary care and most of tertiary care procedures

Question 2. "e-CHARAK" is:

(a) An e-governance platform for rural areas facilitating tele-medicine services
(b) A Community Service Centre for Indian farmers
(c) An information portal on disaster management
(d) A virtual market place for buyers and sellers of medicinal plants sector to interact with each other

ANSWER (d)

Explanation: "e-CHARAK" – e-Channel for Herbs, Aromatic, Raw material And Knowledge is a platform to enable information exchange between various stakeholders involved in the medicinal plants sector. e-Charak has been jointly developed by the National Medicinal Plants Board (NMPB), Ministry of Ayush, Government of India and Centre for Development of Advanced Computing (C-DAC)

Question 3.With reference to the report titled "Time to Deliver",

Consider the following statement:

1. It is released by World Health Organisation (WHO).
2. It is a report on Non communicable diseases (NCDs)

Choose the correct options:
(a) Only 1
(b) Only 2
(c) Both 1 and 2
(d) None of the above

ANSWER (c)

Explanation: World Health Organization's (WHO) Independent High-Level Commission on non-communicable diseases (NCD) has released a report titled "Time to deliver". NCDs affect the people around the world at all stages of the life course, from childhood to old age. Most of the premature death is due to four NCDs —cardiovascular diseases, cancers, chronic respiratory diseases, and diabetes.

Question 4. Consider the following with respect to "Happy Schools

Project"-

1. It was launched by UNICEF with the involvement of Mahatma Gandhi Institute of Education for Peace and Sustainable Development (MGIEPS) in India.
2. The framework of the Project aims to bring happiness and the quality of education together.

Choose the correct option:
(a) Only 1
(b) Only 2
(c) Both 1 and 2
(d) None of the

ANSWER (b)

Explanation: Happy School Project was launched by UNESCO with the involvement of Mahatma Gandhi Institute of Education for Peace and Sustainable Development (MGIEPS) in India. It was launched in 2014 with the aim of promoting learner well-being and holistic development in School. The framework of the Project aims to bring

happiness and the quality of education together by calling for education systems to shift away from traditional measures and to instead embrace a diversity of talents and intelligences by recognizing values, strengths and competences that contribute to enhancing happiness. The Project framework consists of 22 criteria for a happy school under three categories – People, Place and Process.

I. UPSC Mains practice Questions

1. Equal representation in government positions is fundamental for a democracy to be truly representative and effective. Discuss (12.5 Marks; 200 words)
2. Freedom to the Kisan – giving farmers unfettered rights to sell any quantity of their produce to anybody, anywhere and at any time – is the need of the hour. Critically evaluate the statement (12.5 Marks; 200 words)