

11 Apr 2019: UPSC Exam Comprehensive News Analysis

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Category: POLITY AND GOVERNANCE

1. SC rejects Centre's plea to keep Rafale documents secret

Context:

In unanimous support for freedom of the press in a democracy, the Supreme Court dismissed the government's plea to declare the Rafale jets' purchase documents a secret, while upholding the right of free speech of "The Hindu" to publish the defence papers in a series of articles since February 2019.

Details:

- Attorney General Mr. Venugopal had argued that “stolen” documents came under the protection of the Official Secrets Act (OSA). They were not admissible in evidence in a court of law. Claiming privilege, the government had wanted the court to ignore the documents, even if they were found to be relevant to the Rafale case, and dismiss the review petitions at a preliminary stage.
- The Supreme Court responded to Attorney-General K.K. Venugopal’s argument that keeping the Rafale issue “alive” would be a threat to national security, by quoting Justice H.R. Khanna, the iconic lone dissenter in the Emergency case, who said “judges, in order to give legitimacy to their decision, have to keep aloof from the din and controversy of politics and the fluctuating fortunes of rival political parties... Their primary duty is to uphold the Constitution and the laws without fear or favour.”
- Chief Justice of India Ranjan Gogoi, who shared the lead judgment, said The Hindu’s right to publish the Rafale documents was in consonance with the constitutional guarantee of freedom of speech.
- With this, the court dismissed preliminary objections raised by the government against petitions seeking a review of the December 14, 2018 judgment of the Supreme Court, which upheld the deal for purchase of 36 Rafale jets.
- The Supreme Court said that neither Official Secrets Act (OSA) nor any other law empowers the government to stop the media from publishing the documents nor the court from examining them. The RTI Act champions transparency and accountability in governance. It mandates disclosure of even secret government records in the greater public interest.

RTI Act:

- Article 19(1) of the Indian Constitution specifies that the Right to Information (RTI) is a part of the fundamental rights. It says that every citizen has freedom of speech and expression.
- In 1976, in the Raj Narain vs the State of UP, it was held by the Supreme Court that people cannot speak unless they know. Hence the Right to Information is embedded in Article 19.
- It was also said in the same case that the in the Indian democracy, people are the masters which give them the right to know about the functioning of the government.
- RTI Act provides machinery for exercising this fundamental right.
- As per the RTI Act 2005, every citizen has the right to receive a timely response from the government for any information that is sought by them with respect to the functioning of the government.
- Section 24 of the Act provides that allegations of corruption, as well as human rights violations, should not be exempted from disclosure under the law.

Read more about [RTI Act](#)

Official Secrets Act:

- Official Secrets Act (OSA), 1923 was enacted by the British to curb espionage. The Act states that one can’t approach, inspect or even pass through a prohibited site used by the government.
- It was mainly enacted to curb the espionage which may help the enemy state against India.
- The section-3 of the act talks about the penalties if the person is persecuted under the act.
- “(1) If any person for any purpose prejudicial to the safety or interests of the State”..... “obtains collects, records or publishes or communicates to any other person any secret official code” “shall be punishable by imprisonment up to fourteen years and in other case to three years.”

RTI Act supersedes official secrets law:

- The RTI Act confers on citizens the “priceless right” to demand information even in matters

affecting national security and relations with a foreign state, Justice K.M. Joseph said. He also said that the press in India has greatly contributed to strengthening of democracy in the country.

- Justice Joseph was countering the claim made by the government for privilege over Rafale purchase documents under the Official Secrets Act (OSA).
- He said the Right to Information (RTI) Act overawes the OSA.
- Referring to Section 8(2) of the RTI Act, Justice Joseph said the government cannot refuse information if disclosure in public interest overshadows certain 'protected interests.'
- The separate judgment also offers a scathing critique on journalistic bias. The judge said "controlling business interests and political allegiances" have eroded journalistic responsibility. The judge said bias is as much a bane for a journalist as it is for a judge.

2. EC puts on hold release of biopic on PM Modi

Context:

The release of a biopic on Prime Minister Narendra Modi has been deferred till further orders from the Election Commission, which on April 10 issued a directive prohibiting display of any biopic material that sub-serves "the purposes of any political entity or individual connected to it".

Details:

- The Election Commission of India issued an order prohibiting display in electronic media including cinematograph of any biopic material in the nature of biography/hagiography sub-serving the purposes of any political entity or any individual entity connected to it.
- In its order, marked to the secretary of the I&B Ministry, chairman Central Board of Film Certification (CBFC) and the CEOs of all states and union territories, the Commission said it was vital that "the power of media is not used in such a manner which affects the general conduct of the elections".
- The ECI said that if in any movie, certified by the appropriate authority [censor board], there was such a violation, or a complaint was made in this regard, a committee set up by the Commission would examine it and suggest appropriate action.
- The committee will be headed by a retired Supreme Court judge or former Chief Justice of a High Court.
- Previously, the Central Board of Film Certification (CBFC) had sought directions from Election Commission on how it should certify political films when the Model Code is in effect. The EC had clarified that when MCC is in force, CBFC should certify political films/films that are political in nature as per extant provisions of the Cinematograph Act, 1952.
- Exercising its powers under Article 324 of the Constitution, the EC has directed that any biopic material sub-serving the purposes of any political entity or any individual entity connected to it, which is intended to, or which has potential to disturb the level playing field during the elections, should not be displayed during the MCC period.
- EC has also banned related publicity material from electronic media and print media in areas where MCC is in force.
- Article 324 of the Indian Constitution talks about the Superintendence, direction and control of elections to vested in an Election Commission.

3. Commerce Ministry for law to ban making, sale of e-cigarettes

Context:

The Commerce Ministry has asked the Health Ministry to frame a law banning manufacture and sale of e-cigarettes in the country as in the absence of a domestic legislation, it would not be possible to put a blanket

ban on its imports.

E-cigarettes:

- Electronic cigarettes or e-cigarettes are devices that do not burn or use tobacco leaves but instead vaporise a solution, which a user then inhales.
- The main constituents of the solution, in addition to nicotine, are propylene glycol (with or without glycerol and flavouring agents).

Issue:

- The benefits of e-cigarettes, most of which vaporize a liquid containing nicotine, have been a topic for much debate in the global public health community.
- Some say it helps shift smokers to less harmful products, but others argue it could create a new generation of addicts.
- The country has 106 million adult smokers, second only to China, making it a lucrative market for firms.
- As of 2016, e-cigarettes were banned in 30 of World Health Organization's 195 member states. In India, about a third of its 29 states currently ban e-cigarette sales.
- India however has tough laws to deter tobacco use, which the government says kills more than 900,000 people annually.

Details:

- The Health Ministry had asked the Commerce Ministry to issue a notification banning import of electronic nicotine delivery systems (ENDS), including e-cigarettes and flavoured hookah.
- However, it was opined that without banning domestic sale and manufacturing of ENDS through a law, it will be an infringement of global trade norms to put an import ban.
- The Health Ministry, last year had issued an advisory to all States and Union Territories (UTs) to stop the manufacture, sale and import of ENDS after the Delhi High Court took strong exception to the Centre for the delay in coming up with appropriate measures to tackle the “new emerging threat” of e-cigarettes.
- Subsequently, the Central Drugs Standard Control Organisation also directed all Drug Controllers in States and UTs not to allow the manufacture, sale, import and advertisement of ENDS, including e-cigarettes and flavoured hookah, in their jurisdictions.
- Over 1,000 doctors from 24 States and three UTs in April this year urged Prime Minister to enforce a ban on ENDS before it became an “epidemic in India,” especially among the youth.
- The health ministry, in its general advisory to public, had said that as per the World Health Organisation report on the Global Tobacco Epidemic 2017, 30 countries, including Mauritius, Australia, Singapore, Korea (Democratic People's Republic), Sri Lanka, Thailand, Brazil, Mexico, Uruguay, Bahrain, Iran, Saudi Arabia and United Arab Emirates, had already banned electronic nicotine

Way forward:

- Halting imports of e-cigarettes into India will be against multilateral commitments with the World Trade Organization, according to the internal government memo.
- India must first prohibit local sales through regulations that can stand the scrutiny of law.
- Once that is done, the Directorate General of Foreign Trade (DGFT) can announce an import ban.
- The health ministry must work with the DGFT to explore how a ban can be imposed.

Category: SCIENCE AND TECHNOLOGY**1. Capturing a trap where matter, space and time come to an end****Context:**

Astronomers offer an image of the unseeable — a black hole — with the help of eight radio observatories on six mountains and four continents.



The supermassive black hole at the core of supergiant elliptical galaxy Messier 87. Visible are the crescent-shaped emission ring and central shadow, which are gravitationally magnified views of the black hole's photon ring and the photon capture zone of its event horizon. The crescent shape arises from the black hole's rotation; the shadow is about 2.6 times the diameter of the event horizon.

Black hole:

- A black hole is a region of spacetime exhibiting such strong gravitational effects that nothing—not even particles and electromagnetic radiation such as light—can escape from inside it.
- The theory of general relativity predicts that a sufficiently compact mass can deform spacetime to form a black hole.
- The boundary of the region from which no escape is possible is called the event horizon.
- Although the event horizon has an enormous effect on the fate and circumstances of an object crossing it, no locally detectable features appear to be observed.
- In many ways a black hole acts like an ideal black body, as it reflects no light.

Details:

- Astronomers announced that at last they had seen the unseeable: a black hole, a cosmic abyss so deep and dense that not even light can escape it.
- The image, of a lopsided ring of light surrounding a dark circle deep in the heart of the galaxy known as Messier 87, some 55 million light-years away from here, resembled the Eye of Sauron, a reminder yet again of the power and malevolence of nature.
- It is a smoke ring framing a one-way portal to eternity.
- To capture the image, astronomers reached across intergalactic space to a giant galaxy known as Messier 87, in the constellation Virgo.
- There, a black hole about seven billion times more massive than the sun is unleashing a violent jet of energy some 5,000 light years into space.
- The image offered a final, ringing affirmation of an idea so disturbing that even Einstein, from whose equations black holes emerged, was loath to accept it.
- If too much matter is crammed into one place, the cumulative force of gravity becomes

overwhelming, and the place becomes an eternal trap, a black hole. Here, according to Einstein's theory, matter, space and time come to an end and vanish like a dream.

- The image emerged from two years of computer analysis of observations from a network of radio antennas called the **Event Horizon Telescope**.
- In all, eight radio observatories on six mountains and four continents observed the galaxy in Virgo on and off for 10 days in April 2017.
- Perhaps even more important, the images provide astrophysicists with the first look at the innards of a black hole.
- The energy within is thought to be powerful enough to power quasars and other violent phenomena from the nuclei of galaxies, including the jets of intense radiation that spew 5,000 light years from the galaxy M87.
- As hot, dense gas swirls around the black hole, like water headed down a drain, the intense pressures and magnetic fields cause energy to squirt from either side.
- As a paradoxical result, supermassive black holes, which lurk in the centres of galaxies, can be the most luminous objects in the universe.

Category: ECONOMY

1. High stock of non-performing assets in India, more progress needed: IMF

Context:

IMF head of Monetary and Capital Markets Tobias Adrian, at the release of the multilateral institution's April 2019 Global Financial Stability Report (GFSR) as part of the World Bank IMF Spring Meetings said that there continues to be a high stock of non-performing assets (NPAs) in India, and there has been some progression. Further progress is welcome.

Global Financial Stability Report (GFSR):

- The Global Financial Stability Report (GFSR) is a semiannual report by the International Monetary Fund (IMF) that assesses the stability of global financial markets and emerging-market financing. It is released twice per year, in April and October.
- The GFSR focuses on current conditions, especially financial and structural imbalances, that could risk an upset in global financial stability and access to financing by emerging-market countries.
- It emphasizes the ramifications of financial and economic imbalances that are highlighted in one of the IMF's other publications, the World Economic Outlook.
- Topics covered in the GFSR usually include systemic risk assessments in worldwide financial markets, worldwide debt management, emerging economic markets and current economic crises that could affect finances worldwide.
- The GFSR provides an assessment of balance sheet vulnerabilities across financial and non-financial sectors in advanced and emerging market economies.

Details:

- The level of capitalisation of some banks, particularly government-owned banks should be bolstered.
- This is also one of the recommendations of the Financial Sector Assessment Program for India that took place fairly recently.
- Average price-to-book ratios for Indian banks improving somewhat and the institutional mechanisms for resolution and recognition of [non-performing loans] NPLs are, of course, extremely important. The authorities should continue working along these lines.
- Portfolio flows to emerging markets are influenced by benchmark-driven investors — 70% of

country allocations of investment funds are impacted by benchmark indices, the report said.

D. GS4 Related

Nothing here for today!!!

E. Editorials

Category: POLITY AND GOVERNANCE

1. Trickeries of the money bill

What's in the news?

- The Honourable Supreme Court of India has now heard oral arguments in **Revenue Bar Association (RBA) v. Union of India**, in which the validity of the Finance Act of 2017, insofar as it affects the structure and functioning of various judicial tribunals, is under challenge.

Editorial Analysis:

- At first blush, a dispute over the apparent inscrutabilities of a tribunal's working might strike us as uninteresting and, perhaps, even unimportant. But, as the RBA's arguments show us, how the court decides the case will likely have a profound bearing on India's constitutional arrangements.

Untrammelled power

- Ordinarily, the **Finance Act**, which is enacted at the beginning of every accounting year, seeks to give effect to the government's fiscal policies. Some experts opine that in 2017, however, the state wielded the statute without much thought or deliberation. It not only set the fiscal agenda for the year ahead but it **also toppled the existing regime governing the working of 26 different judicial bodies**.
- Until recently, each of these panels was governed by a separate statute, and those laws individually contained a set of principles providing for, among other things, the criteria employed to select and remove members to and from these bodies, and for salaries, allowances and other such service conditions of the members.
- But, in one fell swoop, the Finance Act not only abolished some of the tribunals but also altogether repealed the standards provided in the different statutes.
- In their place, the law vested in the Central government an absolute, untrammelled power to make rules to effectively govern the operation of the tribunals.

What do the petitioners argue?

- The petitioners argued that this move runs sharply athwart judicial independence.
- The new law, in their belief, deputed to the executive what was really an essential legislative function.
- Many of these tribunals, which included the National Green Tribunal (NGT), the Income Tax Appellate Tribunal, the National Company Law Appellate Tribunal, and the Industrial Disputes Tribunal, they pointed out, performed roles that were originally undertaken by the higher judiciary.
- Some experts opine that to assign to the executive's whims the task of establishing the criteria employed in selecting members to the panels and to provide for the members' service conditions was, therefore, **pernicious to the basic principle of separation of powers**.

- Consider one of the consequences. **Despite the Supreme Court's previous ruling that the chairperson of a judicial tribunal ought to be equivalent to the Chief Justice of the high courts, as a result of the rules now made in furtherance of the Finance Act, in 13 different tribunals, a person who is merely qualified to be appointed as a judge of a high court can be selected as the presiding officer.**
- The RBA's case, though, goes beyond questions concerning delegation of power.
- Of equal concern is the enactment of these stipulations through the wangled mechanism of the Finance Act. Substantive matters concerning the governing of tribunals, one would think, can scarcely be considered as a fiscal measure.
- Yet the draft law which introduced these provisions was classified as a money bill, and the sanction of the Rajya Sabha was altogether dodged. Although this too might appear on first glimpse to be a quarrel over esoteric matters of procedure, the consequences are enormous, travelling, as they do, to the heart of India's democratic apparatus.

Views of Luminaries:

- **In B.R. Ambedkar's vision, the Constitution embodied not only a charter of rights but also a foundation for republican governance.**
- His worries that democracy in India was "only a top-dressing on an Indian soil, which is essentially undemocratic", saw him lay stress on a need to diffuse constitutional morality among India's citizens. Citing the classical historian, George Grote, while moving the draft Constitution on November 4, 1948, Ambedkar said constitutional morality had to be seen as representing "a paramount reverence for the forms of the Constitution". Since such reverence had to be cultivated, he thought it imperative that the Constitution commend the minutiae of administration rather than leave such matters purely to the legislature's wisdom. In the absence of such prescriptions, democracy, he feared, would wallow in decline.
- The Constitution's verbosity has been a source of antipathy to many. Too long, too rigid, too prolix, Sir Ivor Jennings, a preeminent British constitutional expert, reportedly said, of the document, in a lecture delivered at the University of Madras in 1951. But only years later Jennings was lauding India for representing the region's most successful constitutional experiment. This turnaround, as it happened, was occasioned by those provisions of administrative intricacies, which Jennings had initially found so troubling, and which Ambedkar had thought indispensable. And it is those provisions that are today under siege.

A Look at Some Specifics:

- One such clause, Article 110(1), grants to the Lok Sabha Speaker the authority to certify a draft law as a money bill so long as such legislation deals only with all or any of the matters specifically listed in the provision.
- These include subjects such as the imposition or abolition of a tax, the declaring of any expenditure to be expenditure charged on the Consolidated Fund of India, and, significantly, also any matter otherwise incidental to the subjects specified in Article 110.
- The ensuing clause clarifies that a draft law will not be a money bill for the reason that it also provides for the imposition or abolition of a tax.
- In other words, substantive laws, which are not merely incidental to the subjects enlisted in Article 110(1) cannot be finagled into a bill that also happens to contain taxing rules. It is precisely such trickery that the petitioners contended the Finance Act of 2017 indulges in.
- **The Union government, for its part, argued that the Speaker of the Lok Sabha was not only correct in making the classification, but that, in any event, her decision was beyond judicial review.**
- To this end, the government relied on **Article 110(3)**, which states that in cases where a dispute arises over whether a bill is a money bill or not, **the Speaker's decision shall be considered final.**
- But, as the Supreme Court has repeatedly held, the finality accorded to the Speaker's decision does

not altogether oust the court's jurisdiction. The irrevocability of such decisions operate only within the realm of Parliament. **For the Constitution expressly vests in the Supreme Court and in the high courts the power to review governmental actions, and issue prerogative writs every time those actions exceed the Constitution's remit.**

- Ultimately, the Speaker derives her power from the Constitution. In classifying a draft law as a money bill, therefore, her decision has to be demonstrably justifiable.
- An immunity from judicial scrutiny would effectively allow the government to elude the Rajya Sabha's constitutional checks by simply having the Speaker classify a draft law as a money bill regardless of whether it, in fact, meets the conditions stipulated in Article 110(1) or not.

Concluding Remarks:

- **It is important to note that the idea behind a money bill is derived from British parliamentary custom.** But unlike in Britain, where judicial review of the Speaker's opinion is unambiguously prohibited, in India, Article 110 avoids creating any such bar. Money bills exist simply to ensure that the Rajya Sabha isn't allowed to bring down a government by refusing it access to the exchequer for everyday governance. **To use it as a means to nullify the Upper House's democratic role in making substantive legislation denigrates the Constitution's form which Ambedkar and the Constituent Assembly considered inviolate.**
- Some experts take the view that the Supreme Court has already squandered at least two opportunities in recent times to provide a sense of sanctity to the Constitution's carefully structured arrangements.
- The dispute over the Finance Act of 2017, therefore, assumes particular significance.
- In deciding the case, the court will do well to pay heed to Ambedkar's warnings, by recognising that the niceties of constitutional form are not a matter of trifles.

2. Rafale rebuff

What's in the news?

- Some experts opine that the Supreme Court's recent decision to consider the relevance of the documents published in the media on the Rafale deal is a firm and necessary rebuff to the Central government's attempts to prevent judicial examination of these papers and to de-legitimise all investigative journalism on the subject.

Editorial Analysis:

- The court's unanimous verdict, rendered in two concurring orders by a three-judge Bench, means that review petitions filed against earlier orders declining an investigation into the purchase of Rafale jets will now be taken up on merits and that the petitioners are free to rely on these documents, regardless of their provenance.
- These documents include those published by The Hindu. A dissenting note by members of the India Negotiating Team, and notes that disclose unease in the Defence Ministry over parallel negotiations at the PMO's instance undermining the official parleys are among them.
- Some experts opine that it would have been a travesty had the government succeeded in blocking judicial scrutiny of these documents, as they disclose significant details about the decision-making process.
- Critics point out that the government's desperate attempts to prevent the court from relying on these papers included a claim of privilege under the **Evidence Act**, a threat of invoking the **Official Secrets Act (OSA)** and an accusation that the published documents were "stolen" ones.
- Later, it toned down the allegation by saying the original documents had not been stolen, and what were published were unauthorised photocopies. None of these claims impressed the court, which relied on the principle that how a piece of evidence is obtained is immaterial, as long as it is relevant

to adjudicating an issue.

Concluding Remarks:

- The decision on the admissibility of the documents has significance beyond the Rafale issue: it gives life to the rights of a free press and underscores the principle that it is public interest, and not the content of a document alone, that will decide whether disclosure is needed or not in a given case.
- Referring to the publication of the Rafale documents in The Hindu, **Chief Justice Ranjan Gogoi observed that “the right of such publication would seem to be in consonance with the constitutional guarantee of freedom of speech”.**
- Citing the U.S. Supreme Court decision on the Pentagon Papers, he noted that neither the OSA nor any other law vests any power in the executive to stop publication of documents marked ‘secret’ or the placing of such documents before a court of law which may be called upon to adjudicate a legal issue.
- It is premature to conclude, based on this development, that the court’s earlier decision to not order a criminal investigation into the purchase of 36 Rafale jets will be revisited.
- However, it will certainly help provide clarity on several aspects of the murky deal. Had the government agreed to a parliamentary probe early on, it would not be suffering the sort of setback it has now faced in the Supreme Court.

3. Gubernatorial impropriety

Note to Students:

- The office of the Governor has come under scrutiny time and again and is an important issue to cover under the UPSC syllabus. In the sections outlined below, the larger background would help give you further insights over and above the context matter covered in the article, “Gubernatorial impropriety” published in the Hindu today (11th April, 2019).
- The points covered in the larger background are largely from a consultation paper on the office and institution of the Governor by the National Commission to Review the Working of the Constitution.

What’s in the news?

- Recently, the political endorsement given to the BJP by the Rajasthan Governor has reignited the debate on the independence and neutrality of the constitutional post.
- The Governor’s office has often courted controversy for the incumbent’s political views.
- However, there is a marked difference between seemingly routine deviations from strict constitutional norms and the present case, in which the alleged impropriety is neither subtle nor cloaked in specious constitutional justifications.

Larger Background:

Role of the Governor:

- There shall be a Governor for each state (Articles 153 of the Constitution of India).
- The executive power of the State shall be vested in the Governor and shall be exercised by him either directly or through officers subordinate to him in accordance with the Constitution of India (Article 154)
- The Governor of a State shall be appointed by the President by warrant under his hand and seal (Article 155).
- A person to be eligible for appointment as Governor should be citizen of India and has completed age of 35 years (Article 157).
- The Governor shall not be a member of the Legislature or Parliament; shall not hold any office of

profit, shall be entitled to emoluments and allowances. (Article 158)

- Every Governor and every person discharging the function of the Governor shall make a subscribe an oath or Affirmation (Article 159).
- The President may make such a provision as he thinks fit for the discharge of the functions of the Governor of a State in any contingency not provided for in Chapter II of the Constitution.(Article 160).
- The Governor shall have the power to grant pardons, reprieves, etc. (Article 161).
- There shall be council of Ministers with the Chief Minister at the head to aid and advise the Governor in the exercise of his functions except in so far as he is by or under the Constitution required to exercise his functions or any of them in his discretion. (Article 163).
- The Governor appoints Chief Minister and other Ministers. (Article 164).
- The Governor appoints the Advocate General for the State. (Article 165).
- All executive actions, of the Governor of a State shall be expressed to be taken in the name of Governor. (Article 166).
- The Governor shall from time to time summon and prorogue the House and dissolve the Legislative Assembly. (Article 174).
- The Governor may address the Legislative Assembly....; The Governor may send messages to the House. (Article 175).
- Special Address to the House by the Governor. (Article 176).
- The Governor assents, withholds assent or reserves for the consideration of the Bill passed by the Legislative Assembly. (Article 200).
- The Governor shall in respect of every financial year cause to be laid before the House.... a statement of the estimated receipts and expenditure. (Article 202).
- No demand for a grant shall be made except on the recommendation of the Governor. (Article 203(3)).
- The Governor shallcause to be laid before the House another statement showing estimated amount of expenditure. (Article 205).
- The Governor may promulgate the ordinances under certain circumstances. (Article 213).
- The Governor is consulted for appointment of Judges of High Court. (Article 217).

Some noteworthy points:

- While the President is elected by the representatives of the people, namely, the Members of Parliament and the Members of the State Legislatures, the Governor is merely appointed by the President which really means, by the Union Council of Ministers. Inasmuch as the Governor holds office during the pleasure of the President, there is no security of his tenure. He can be removed by the President at any time. Though the Governor is the executive head of the State and a part of the State Legislature and the administration of the State is carried on in his name, the people of the State or their representatives have no say in the matter of his appointment. While the President is elected by the representatives of the people, namely, the Members of Parliament and the Members of the State Legislatures, the Governor is merely appointed by the President which really means, by the Union Council of Ministers.
- In as much as the Governor holds office during the pleasure of the President, there is no security of his tenure. He can be removed by the President at any time. There is no provision for impeaching the Governor by the State Legislature. Indeed, if the Governor misbehaves or acts in a manner against the interests of the people of the State, as perceived by the State Legislature they cannot do anything except perhaps complain to the President. It may also be noticed that the Chief Minister is appointed by the Governor.

A Look at the Current Situation:

- Today the situation is that different political parties are in power in different States. In other words, the situation obtaining between 1952 and 1967, when one party controlled both the Parliament and

State Legislatures no longer continues.

- In such a situation and because the Governor owes his appointment and his continuation in the office to the Union Council of Ministers, in matters where the Central Government and the State Government do not see eye to eye, there is the apprehension that he is likely to act in accordance with the instructions, if any, received from the Union Council of Ministers rather than act on the advice of his Council of Ministers.
- Indeed, **the Governors today are being pejoratively called the “agents of the Centre”**.
- It is true that the Central Government is not expected to give any instructions which compromise the status and position of the Governor nor is it expected to remove him for not implementing the instructions given by it; the experience for the last several years belies this hope.
- As Seervai has pointed out in his commentary: “As the President acts on the advice of his Ministry, it may be contended that if the Governor takes action contrary to the policy of the Union Ministry, he would risk being removed from his post as Governor and therefore he is likely to follow the advice of the Union Ministry. It is submitted that a responsible Union Ministry would not advise, and would not be justified in advising, the removal of a Governor because, in the honest discharge of his duty, the Governor takes action which does not fall in line with the policy of the Union Ministry. The removal of the Governor under such circumstances would otherwise mean that the Union executive would effectively control the State executive, which is opposed to the basic scheme of our federal Constitution. **Article 156(1) was designed to secure that if the Governor was pursuing policies which were detrimental to the State or to India, the President would remove the Governor from his office and appoint another Governor. This power takes the place of an impeachment which clearly is a power to be exercised in rare and exceptional circumstances**”.

Some Powers and Provisions that have come under scrutiny:

- The **power to withhold assent** appears to be wide and unguided power.
- The Governor is an appointee of the President (Central Government).
- He is not elected by the people of the State or by their representatives.
- In such a situation, the legitimacy of this power, which empowers him to undo the will of the Legislature by just declaring that he is withholding his assent, is open to question.
- If, on the other hand, for any reason, the power to withhold assent is treated as a matter within the discretion of the Governor, the position would be a totally unedifying one.
- In the absence of any guidance provided by the Constitution in which cases this power can be exercised and in view of the further fact that no court is entitled to go into the justification of such withholding, conferment of such power is bound to be inherently arbitrary and discriminatory.
- Coming to **Article 201**, it says that where a Bill is reserved by a Governor for the consideration of the President, the President shall declare either that he assents to the Bill or that he withholds assent therefrom.
- The President is also empowered to “direct the Governor to return the Bill to the House ... together with such a message as is mentioned in the first proviso to Article 200....” Here again no time limit is fixed within which the President should take a decision. **There have been instances where Bills have been pending with the President for periods up to six years or more.**
- Yet another feature of **Article 201** is that where the President directs the Governor to return the Bill to the Legislature and the Legislature passes the Bill again (with or without amendments) and when it is presented to the President again for consideration, the Article does not say that the President is bound to grant his assent, as it is said in the case of the Governor by the first proviso to Article 201. It is rather surprising that even after the Legislature reconsiders the Bill, passes it again and presents it to the President for consideration, it can be stalled, if he so chooses, by not assenting to it and by “cold storing” it, if we can use that expression. Inasmuch as the President would be guided by the Union Council of Ministers in this behalf, it may quite happen (indeed, as it has already happened) that where a different party or group is in power at the Centre, it can easily neutralize and nullify the will of the State Legislature by advising the President to withhold his assent or cold-storage it even

after the Bill is presented to the President after reconsideration of the Bill.

Editorial Analysis:

A Look at some of the important remarks made on the office of the Governor:

- It is important to note that the Sarkaria Commission described the Governor as “a Constitutional sentinel and a vital link between the Union and the State.”
- In S.R. Bommai (1994), the Supreme Court said, **“The office of the Governor... is intended to ensure protection and sustenance of the constitutional process of the working of the Constitution by the elected executive.”**
- **K. Gandhi said about the Governor’s office: “He would be an arbiter when there was a constitutional deadlock in the State and he would be able to play an impartial role.”**
- Given the vagueness surrounding the process of appointing and removing the Governor, doubts have been raised about the ‘legal nature’ of his office.
- According to B.R. Ambedkar, “He is the representative not of a party; he is the representative of the people as a whole of the State. It is in the name of the people that he carries on the administration.”
- In **Hargovind Pant v. Raghukul Tilak (1979)**, the Supreme Court affirmed that the **“office of the Governor was not subordinate or subservient to the Government of India”**.
- In the contemporary constitutional landscape, the Governor is expected to advance the cause of ‘federalism’ and ‘democracy’, which form a part of the basic structure of the Constitution.
- In **Government of NCT of Delhi v. Union of India (2018)**, then Chief Justice of India, Dipak Misra, clarified that democracy and federalism are firmly imbibed in India’s constitutional ethos, while reiterating that **democracy requires the constant affirmation of constitutional morality**.

Some specific issues concerning the office of the Governor:

- Despite his unique constitutional positioning, the Governor is sometimes not seen as willing or able to discharge his functions as judiciously, impartially and efficiently as envisaged by the first Administrative Reforms Commission.
- A perusal of the reports of the Sarkaria, Punchhi and Venkatachaliah Commissions reveals that the independence and dignity of the gubernatorial office is invariably undermined by:
 1. the appointment of persons not suited to the post,
 2. the lack of security of tenure,
 3. the lack of an appropriate removal mechanism, with no reasonable post-retirement benefits
 4. and limitations on post-retirement political ingratiation.
- Consequently, the promise of the institution remains as underwhelming as ever while the perils continue to multiply.

Concluding Remarks:

- It is high time that the recommendations of the relevant commissions are implemented in letter and spirit to obviate the danger of a full-blown constitutional crisis, to buttress constitutional morality and to restore the dignity of this office.

Category: INTERNATIONAL RELATIONS

1. Forcing China’s hand?

Editorial Analysis:

- In March, 2019, the U.S. opened another front in its on-going multi-pronged tussle with China. The U.S. circulated a draft resolution to the powerful 15-nation UN Security Council (UNSC) on March 27, 2019 to blacklist Pakistan-based Jaish-e-Mohammed chief Masood Azhar and subject him to a travel ban, an assets freeze and an arms embargo.
- It did so knowing full well the Chinese position on the issue as China had put a hold on a French proposal to list Azhar under the 1267 al-Qaeda Sanctions Committee of the Council just a few days earlier.
- Washington has underlined that it would utilise “all available avenues” to ensure that Azhar is held accountable by the UNSC by suggesting that “while we strongly prefer that UNSC designations take place through the committee process, the United States and its allies and partners, including those on the... Security Council, will utilise all available avenues to ensure that the founder and leader of the UN-designated terrorist organisation JeM is held accountable by the international community.”

China's Reaction:

- China, of course, has reacted strongly to this move by arguing that the U.S. decision to go directly to the UNSC to designate Azhar could scuttle China's efforts to resolve the issue amicably.
- As per the Chinese spokesperson, “China has been working hard with relevant sides and is making positive results. The U.S. knows that very well. Under such circumstances, the U.S. still insists on pushing the draft resolution, (which) doesn't make any sense.”

The U.S.-China angle:

- Washington will be aware that China would continue to oppose the move but the fact that it is willing to take on China so openly on this issue underscores that it wants to call China out publicly.
- This was reflected in U.S. Secretary of State Mike Pompeo's tweet: “The world cannot afford China's shameful hypocrisy toward Muslims. On one hand, China abuses more than a million Muslims at home, but on the other, it protects violent Islamic terrorist groups from sanctions at the UN.”
- France's proposal to get Azhar listed as a terrorist by the the UN's 1267 sanctions committee was scuttled by China despite the move having the support of 14 out of 15 members.
- As a matter of fact, in its zeal to shield Pakistan, China has used its veto on Azhar's listing at the 1267 UNSC sanctions committee four times in the past decade.
- But after the February 14 Pulwama attack that killed 40 Central Reserve Police Force (CRPF) personnel, for which the JeM took responsibility, Chinese intransigence has come under the spotlight.
- After China's block in March 2019, France moved quickly to impose sanctions on Azhar, including a freeze on his assets. It is working with its European partners the matter of putting Azhar on a European Union list of terrorists and terror organisations.
- **It is important to note that the international community, apart from China, has rallied behind India after Pulwama and has pushed Pakistan to undertake serious measures to control terrorism emanating from its territory.**
- This has been shaped by India's diplomatic outreach over the last few years in which global support has been sought to reverse Pakistan's support to terrorist organisations.
- However, experts opine that what has given this an added sense of urgency is India's decision to up the ante after the Pulwama attacks by taking the fight to the Pakistani territory.
- This has now put the onus on Pakistan to de-escalate, a reversal of the post-1998 situation where in every India-Pakistan crisis it was New Delhi which was expected to take steps for de-escalation even as every crisis was precipitated by Pakistan.
- After every crisis, the international community, especially the West, would persuade India to ease tensions, and in most cases India relented. **The post-Pulwama South Asian strategic equilibrium**

has shifted as New Delhi has made it clear that it could not be expected to look the other way from Pakistani provocations.

Concluding Remarks: Regional peace

- The latest American move is an unprecedented one, and is not only aimed at forcing the Chinese hand on Masood Azhar but is also a recognition of the new regional context in South Asia where a stronger global attempt to rein in Pakistan is the only viable option of maintaining regional peace.
- As the U.S. and China prepare the South Asian chessboard, Indian moves have suddenly become the decisive ones and both the powers are calibrating their own moves accordingly.

Category: INTERNAL SECURITY

1. Dantewada ambush

- The Election Commission has taken the correct decision to go ahead with the first phase of polling, on the 11th of April, 2019 in the Lok Sabha election in Chhattisgarh after the deadly Maoist attack in Dantewada on 9th of April, 2019.
- Maoists struck at a convoy in Dantewada, which comes under the Bastar parliamentary constituency, and killed Bhima Mandavi, the BJP MLA from Dantewada, and four security personnel.

What was the aim of this attack?

- The aim was clearly to disrupt the electoral process, and it will be vital for the administration to ensure polling without fear of violence.
- Equally grimly, the attack underlines the reality that for all the reverses they have suffered in the past few years, the Maoists retain their ability to pick and choose targets.

What was used in the attack?

- Initial reports suggest that an improvised explosive device blew up the lead vehicle in Mandavi's two-vehicle convoy, and the second then came under gunfire from the Maoists who had laid the ambush.
- A speedy inquiry should clarify the facts of the incident, but it is reported that the BJP legislator may have been complacent, choosing to ignore the police advice that he take along additional security cover that was available to him.
- However, these early details also show that in terms of intelligence the attackers managed to be one step ahead, despite the heavy security bandobast in the area in light of the Lok Sabha election.

Conducting Elections in the State: Perspective on Security

- Given that it is difficult to fully secure a State with a history of violent attacks, it is important that adequate measures be put in place to protect the candidates in the fray, over 160 of them, for the 11 Lok Sabha constituencies that will go to the polls in three phases, on April 11th, 18th and 23rd, 2019.
- After the relatively peaceful conduct of the Assembly elections in the State late last year (2018), it would have signalled a precipitous slide if the electoral process in Chhattisgarh were to be disrupted now.
- Beyond security for the peaceful conduct of elections, the latest attack highlights the need for the security forces to keep updating their standard operating procedures.
- It is also a call for the civil administration to keep extending its reach in the forests of central India, especially Bastar.

Concluding Remarks:

- Even as the security forces stare down the Maoist threat, the political and administrative responses are crucial.
- In most of the violence-hit regions of India, responsibility for security has been passed on to the paramilitary forces in abundant measure.
- The capacities of the State police need to be addressed.
- Local communities, in turn, have to be reassured that the fight against Maoism is also a political one.
- The Maoist argument lost its potency long ago. But the difficult task of addressing people's aspirations and concerns, especially about exploitation and alienation from their lands in the face of extractive policies in their resource-rich habitat, must be pursued on a war footing.

F. Tidbits

1. IAS officer pens rap song to motivate voters

- Beating a stereotype, a woman IAS officer in Punjab's Mohali district has come out with a rap song, asking voters to exercise their right to vote to realise their aspirations and not to be lured by money and liquor.
- It's being played on FM, social media, IPL matches, and in theatres soon.
- Further, the local administration has been working on electorate awareness building with basic knowledge of the electoral process through mobile vans. The mobile van goes around villages with election related information.

2. Blue, a human-friendly robot, could lend a hand with your household chores

- Scientists have developed a robot that uses artificial intelligence (AI) to master intricate human tasks, and could one day help you fold laundry or make a cup of coffee at home.
- Robots may have a knack for super-human strength and precision, but they still struggle with some basic human tasks.
- Blue, the human-friendly robot conceived and built by researchers at the University of California, Berkeley in the U.S., can learn human tasks, while being safe enough for every home to have one.
- "AI has done a lot for existing robots, but we wanted to design a robot that is right for AI," said Pieter Abbeel, Professor at UC Berkeley.
- Blue's durable, plastic parts and high-performance motors total less than \$5,000 to manufacture and assemble. Its arms, each about the size of the average bodybuilder's, are sensitive to outside forces — like a hand pushing it away — and has rounded edges and minimal pinch points to avoid catching stray fingers.
- Blue's arms can be very stiff, like a human flexing, or very flexible, like a human relaxing, or anything in between.

3. Report reveals growing risk to cloud platform

- Cybercriminals attempted attacks on a cloud server honeypot more than 6,78,000 times in a month, which was second to Ohio in the U.S. that recorded more than 9,50,000 login attempts, among a total of 10 honeypots placed globally, global cybersecurity major Sophos said.
- The honeypots were set up in 10 of the most popular Amazon Web Services (AWS) data centres in the world, including California, Frankfurt, Ireland, London, Ohio, Paris, Sao Paulo, Singapore and Sydney over a 30-day-period from mid-January to mid-February.

- **What** **is** **a** **honeypot?**
A honeypot is a system intended to mimic likely targets of cyberattackers for security researchers to

monitor cybercriminal behaviour.

- According to the report, 'Exposed: Cyberattacks on Cloud Honeypots', over five million attacks were attempted on the global network of honeypots, thus, demonstrating how cybercriminals are automatically scanning for weak open cloud buckets.
- With businesses across the globe increasingly adopting cloud technology, the report revealed the extent to which businesses migrating to hybrid and all-cloud platforms are at risk.
- The aggressive speed and scale of attacks on devices demonstrates the use of botnets to target an organisation's cloud platform.

G. Prelims Facts

1. Cyclone Idai

- Intense Tropical Cyclone Idai was one of the worst tropical cyclones on record to affect Africa and the Southern Hemisphere.
- Idai originated from a tropical depression that formed off the east coast of Mozambique.
- The long-lived storm caused catastrophic damage in Mozambique, Zimbabwe, and Malawi, leaving more than 1,000 people dead and thousands more missing.
- Idai is the second-deadliest tropical cyclone recorded in the South-West Indian Ocean basin, behind only the 1892 Mauritius cyclone.
- In the Southern Hemisphere, it currently ranks as the third-deadliest tropical cyclone on record, behind the aforementioned 1892 Mauritius cyclone and the 1973 Flores cyclone.
- Idai brought strong winds and caused severe flooding in Madagascar, Mozambique, Malawi, and Zimbabwe.
- A major humanitarian crisis unfolded in the wake of the cyclone, with hundreds of thousands of people in urgent need of assistance. A cholera outbreak ensued in the storm's wake.
- Infrastructural damage from Idai across Mozambique, Zimbabwe, Madagascar and Malawi were estimated to be at least US\$1 billion (2019 USD), making Idai the costliest tropical cyclone in the South-West Indian Ocean basin.

H. Practice Questions for UPSC Prelims Exam

Q1) Consider the following statements:

1. The Indian Ocean Conference is initiated by India Foundation along with its partners from Singapore, Sri Lanka and Bangladesh.
2. It was held for the first time at Hanoi.

Which of the following statement/s in/are correct?

- a. Only 1
- b. Only 2
- c. Both 1 and 2
- d. Neither 1 nor 2

Answer: a

Explanation:

Three successful editions of the Conference have been hosted so far. The latest one was held at Hanoi.

Q2) Consider the following statements:

1. India is the founding member of Asian Development Bank.
2. India is one of the top 5 shareholders in ADB.

Which of the following statement/s in/are correct?

- a. Only 1
- b. Only 2
- c. Both 1 and 2
- d. Neither 1 nor 2

Answer: c

Explanation:

ADB was founded in 1966 and India is a founding. The ADB has 67-member countries, including — 48 from the Asian region. 5 shareholders in ADB are: Japan (15.6%), United States (15.6%), People's Republic of China (6.4%), India (6.3%) and Australia (5.8%). It provides direct assistance to private enterprises of developing member countries through equity investments and loans.

Q3) Which of the following countries border the Caspian Sea?

1. Azerbaijan
2. Russia
3. Kazakhstan
4. Turkmenistan
5. Iran

Choose the correct answer:

- a. 1, 2, 3
- b. 1, 3, 4, 5
- c. 3, 4, 5
- d. 1, 2, 3, 4, 5

Answer: d

Explanation: Self-explanatory

Q4) Consider the following statements with respect to International Telecommunication Union

1. It is the United Nations specialized agency for information and communication technologies – ICTs.
2. It is a member of the United Nations Development Group.

Which of the following statement/s in/are correct?

- a. Only 1
- b. Only 2
- c. Both 1 and 2
- d. Neither 1 nor 2

Answer: c

Explanation:

Self-explanatory

I. UPSC Mains Practice Questions

1. NSA and AFSPA are draconian laws not suitable for a democratic country like India. Critically comment. (15 Marks)
2. The Financial Act of 2017 interferes with the doctrine of separation of powers. Analyse. (10 Marks)

