

# 05 Oct 2020: UPSC Exam Comprehensive News Analysis

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## B. GS 2 Related

### Category: POLITY AND GOVERNANCE

#### 1. [Section 29 of POCSO Act applicable only after trial begins: HC](#)

##### Context:

The Delhi High Court ruling on Section 29 of the [POCSO Act](#).

##### High Court Ruling:

- The Delhi High Court has ruled that the presumption of guilt embedded in Section 29 of the Protection of Children from Sexual Offences (POCSO) Act gets triggered and applies only once the trial begins, i.e after charges are framed against the accused.

### **Section 29 of POCSO Act:**

- Section 29 of the POCSO Act says that when a person is prosecuted for committing an offence of sexual assault against a minor, the special court trying the case shall presume that the accused is guilty.
- POSCO incorporated this provision wherein there is a reverse burden on the accused to prove his innocence keeping in view the low conviction rate of sexual offences against children.

### **Details:**

- The ruling came in response to the question of whether the presumption of guilt applies only at the stage of trial or does it also apply when a [bail](#) plea is being considered.
- It was clarified that if a bail plea is being considered before charges have been framed, Section 29 has no application, as trial commences when charges are framed against an accused and not before that.

## **2. SC against involuntary narco tests**

### **Context:**

A Supreme Court judgment of 2010 has held that involuntary administration of narco or lie detector tests is an intrusion into a person's mental privacy.

### **Details:**

- "An individual's decision to make a statement is the product of a private choice and there should be no scope for any other individual to interfere with such autonomy," Supreme Court had held.
- It said that involuntary administration of narco tests amounted to a restraint on personal liberty while asserting that such tests come into conflict with the 'right against self-incrimination'.
- The court has said that the consequences of such tests on individuals from weaker sections of society who are unaware of their [fundamental rights](#) and unable to afford legal advice can be devastating.
- It has opined that it may involve future abuse, harassment and surveillance, even leakage of the video material to the press for a trial by media.
- Such tests are an insult to human dignity and liberty and could have long-lasting effects.

Read more about [Narco Analysis and its legality in India](#).

## **Category: INTERNATIONAL RELATIONS**

### **1. Xi pitches for closer ties with Bangladesh, seeks BRI push**

### **Context:**

Chinese President's remarks on China-Bangladesh relationship on the 45th anniversary of the establishment of the bilateral diplomatic relations with the country.

### **Details:**

- The Chinese President has said that he stands ready with Bangladesh leaders to better align the two countries' strategies and jointly promote the construction of the multi-billion dollar [Belt and Road Initiative \(BRI\)](#).
- The BRI seeks to build rail, maritime and road links from Asia to Europe and Africa in a revival of ancient Silk Road trading routes.

### **China-Bangladesh Relationship:**

- China has offered zero-tariff treatment to 97% of Bangladesh's exports by expanding the list of duty-free products.
- With over \$26 billion Chinese investments and \$38 billion funding commitments, Bangladesh is one of the largest recipients of China's massive infrastructure project.
  - The initiative has attracted allegations of debt-diplomacy after Sri Lanka handed over its Hambantota Port to a state-run Chinese firm in 2017 for a 99 years' lease in a debt swap amounting to \$1.2 billion.
  - Also, several projects have been deferred by Malaysia under the BRI, citing cost revaluation.
- China had sent a medical team to Bangladesh to share its experience of handling the coronavirus.
- Bangladesh is among a dozen countries where the clinical trials of Chinese vaccine are underway.

### **India's concerns:**

- The BRI is aimed at firming up China's global influence.
- The project has been a major bone of contention between India and China as one portion of the [China Pakistan Economic Corridor \(CPEC\)](#) – a part of BRI, passes through Pakistan-occupied Kashmir.
  - China has initiated over \$60 billion as part of the CPEC.
- Besides Pakistan, China has stepped up its huge infrastructure investments in Bangladesh, Nepal, Sri Lanka and the Maldives, raising concerns of its growing influence in India's immediate neighbourhood.

## **C. GS 3 Related**

### **Category: ENVIRONMENT AND ECOLOGY**

#### **1. 'SC orders violated in Chardham project'**

##### **Context:**

The chairman of a Supreme Court-appointed expert committee has alleged violations of the court orders in the execution of the Chardham road project.

Read about the functions of the [high-powered committee appointed by the Supreme Court](#).

##### **Issue:**

- The controversy was over the proposed width of the two-lane highways envisaged.
- The SC ruled that a width of 5.5 metres be enforced as it was in conformity with a 2018 recommendation of the Ministry of Road Transport and Highways (MoRTH) for mountain roads.
  - The MoRTH is also the key coordinator of the Chardham project.
- Prior to this, the government had sanctioned a road width of 10-12 metre.

- The Chairman of the High Powered Committee (HPC) has said the MoRTH has allowed the 700 km road project to continue with the old 10-metre width which is a clear contravention of the Supreme Court orders which said that the road width must apply to the entire stretch.

### **Chardham Project:**

- It is a 900 km, ₹12,000 crore enterprise to connect the Char Dham pilgrimage centres in Uttarakhand, namely Gangotri, Yamunotri, Kedarnath and Badrinath.

Read more about [Chardham Project](#).

## **D. GS 4 Related**

*Nothing here for today!!!*

## **E. Editorials**

**Category: ECONOMY**

### **1. Transforming business and the insolvency system**

#### **Context:**

- The article discusses the significance of the [Insolvency and Bankruptcy Code \(IBC 2016\)](#) and suggests further measures to improve its implementation effectiveness.

#### **Significance of the IBC:**

##### **A key structural reform:**

- The IBC, being a structural reform, has transformed insolvency resolution in India.
- It has replaced a rather inefficient bankruptcy law regime and thus helped instil confidence in the corporate resolution methodology by **streamlining the insolvency process in a sustainable, efficient, and value retaining manner.**
- The IBC through the **Insolvency and Bankruptcy Board of India (IBBI)** has established an organisation that both regulates and develops insolvency policy and assesses market realities.

##### **Ease of doing business:**

- The IBC has played an important role in aiding India's rapid rise in the Ease of Doing Business rankings.
  - India's **Resolving Insolvency Index under the Ease of Doing Business Index** has improved to 52 in 2019 from 108 in 2018, a leap of 56 places.

##### **Enhanced investor confidence:**

- The IBC may have also contributed to increasing investor confidence in India.
  - There has been a **surge in [Foreign Direct Investment](#) into India in 2019-2020**, to the tune of nearly \$74.5 billion, or a significant increase of 20 per cent from the previous year.

- The IBC has also helped encourage domestic entrepreneurship.

### Emphasis on resolution:

- Under the IBC, there has been a **focus on prioritising resolution rather than liquidation**.
- This has allowed the creditors to recoup some of their investments in firms being liquidated or going in for resolution.

### Time bound process:

- An important aspect of the IBC code has been the emphasis on a **relatively short time-bound resolution process**.
  - As per the data available, the overall time taken in recovery has improved nearly three times, coming down from 4.3 years in 2018 to 1.6 years in 2019.
- The cutting down of the time for the resolution process is of critical importance in the working of the bankruptcy code.
  - The longer the delay, the more likely that the entity in question would move towards liquidation rather than resolution.
  - Also, the **delays result in low-value liquidation** due to a high economic rate of depreciation.
  - As per the data provided by the Ministry of Corporate Affairs, **the recovery rate has improved nearly threefold from 26.5% in 2018 to 71.6% in 2019**.

### Economic growth:

- The IBC's core implication has been to **allow credit to flow more freely to and within India** while promoting investor and investee confidence.
- The Insolvency and Bankruptcy Code (IBC 2016) would help aid India's path to self-reliance on a high growth trajectory enabling India to emerge as a 'Make for World' platform as envisaged by the government.

### Other notable reforms:

#### Liberalizing the existing laws:

- Given that criminal penalties for minor offences act as major deterrents for investors, the Government is working towards **decriminalisation of minor offences**, which will significantly help reduce the risk of imprisonment for actions or omissions that are not necessarily fraudulent or an outcome of mala fide intent.
- The government's intent is to help differentiate between good faith mistakes and intentional bad faith actions, so as to penalise the former and criminalise the latter.

#### Commercial courts:

- The rolling out of the **commercial courts, commercial divisions and the Commercial Appellate Divisions Act, 2015**, to allow district court-level commercial courts, and the removing of over 1,500 obsolete and archaic laws will help improve the investment climate and also aid in **enhancing enforceability of contracts in India**.
  - The enforceability of contracts has been a challenge in India. On average, it takes as many as 1,445 days for a contract to be enforced, and costs nearly 31% of the claim value.

### Steps to be taken:

- Further streamlining of the IBC process is possible and needs to be considered.

### Pre-packed resolutions:

- There is the need to look at institutionalising the process of a pre-packed insolvency resolution.
  - A pre-packaged resolution is one where a company prepares a restructuring plan in cooperation with its creditors before initiating insolvency proceedings.
- This will help resolve matters expeditiously, outside of the formal court system, and allow resolution even during the disruptions caused by the COVID-19 pandemic.
- This also helps reduce the time and costs involved in the process.

### Helping MSMEs:

- There is a need to put in place a Micro, Small and Medium Enterprises (MSME) and non-MSME frameworks to help expedite and also streamline the resolution process in these sectors, given the disastrous impact that the pandemic and the associated lockdown has had on this sector.

### Going digital:

- Given the need for social distancing and the suspension or limitation of physical hearings, a concerted effort should be made to enhance the role of digitally conducting all processes and hearings relating to the resolution processes.
- This would also **help ease access to justice and greatly help ease of doing business**.

## 2. The future of GST hangs in the balance

### Context:

- The scheduled meeting of the **Goods and Services Tax (GST) council**.

### Background:

- **The GST compensation issue** has been a bone of contention between the centre and state governments threatening to undermine both India's fiscal federalism and Centre-State relations.

This issue has been covered previously in the following articles:

[CNA dated Aug 11, 2020: Making up for shortfalls in GST collection](#)

[CNA dated Aug 30, 2020: Centre must borrow and pay States' GST dues: Kerala](#)

### Details:

- Many states have accepted the proposal made by the Central Government while many others have rejected it. In this background, the GST compensation issue could be put to vote in the GST Council meeting.
- Around twenty members of the GST Council have agreed to the Centre's proposal and around 11 States have opposed the Centre's plan. Every State irrespective of their contribution to the GST revenues has equal weight in the GST Council.
- **The GST Council has 31 States and Union Territories represented.**
- Twelve votes can veto a proposal in the GST council.



### GST Council:

- As per **Article 279A (1) of the amended Constitution**, the GST Council had to be constituted by the President within 60 days of the commencement of Article 279A.
- As per Article 279A of the amended Constitution, the GST Council would be a joint forum of the Centre and the States.

### **Mandate:**

- The Goods & Services Tax Council is a constitutional body for making recommendations to the Union and State Governments on issues related to Goods and Service Tax.
- As per Article 279A (4), the Council will **make recommendations to the Union and the States on important issues related to GST**, like the goods and services that may be subjected or exempted from GST, model GST Laws, principles that govern Place of Supply, threshold limits, GST rates including the floor rates with bands, special rates for raising additional resources during natural calamities/disasters, special provisions for certain States and also any other matter relating to the goods and services tax, as the Council may decide.
- The Goods and Services Tax Council shall also help establish a mechanism to **adjudicate any dispute** —
  - between the Government of India and one or more States; or
  - between the Government of India and any State or States on one side and one or more other States on the other side; or
  - between two or more States, arising out of the recommendations of the Council or implementation thereof.

### **Membership:**

- The GST Council is **chaired by the Union Finance Minister** and other members are the Union State Minister of Revenue or Finance and Ministers in-charge of Finance or Taxation of all the States.

### **Decision making process:**

- One-half of the total number of members of the Goods and Services Tax Council shall constitute the quorum at its meetings.
- Every decision of the Goods and Services Tax Council shall be taken at a meeting, by a **majority of not less than three-fourths of the weighted votes of the members present and voting**, wherein the vote of the Central Government shall have a weightage of one-third of the total votes cast, and the votes of all the State Governments taken together shall have a weightage of two-thirds of the total votes cast, in that meeting.

## **F. Prelims Facts**

### **1. A commission misguided**

- The National Commission for Protection of Child Rights (NCPCR) is the apex body for upholding, monitoring and facilitating child rights in the country.
- The National Commission for Protection of Child Rights (NCPCR) is a statutory body established by an Act of Parliament, **the Commission for Protection of Child Rights (CPCR) Act, 2005** and works under the Ministry of Women and Child Development.

- It strives to ensure that all laws and policies in the country are in consonance with the **rights of children as emphasised by the Indian Constitution as well as with the [UN Convention on the Rights of the Child](#)**.
- A child is defined as any person between the ages of 0 and 18 years.

## 2. Two special expenditure observers appointed for Bihar

### What's in News?

- Special Expenditure Observers are appointed by the Election Commission of India in the exercise of the powers conferred on it under Article 324 of the Constitution and the [Representation of the People Act, 1951](#).

### Functions:

- The Special Observers will supervise and monitor the work being done by the electoral machinery.
- They ensure that stringent and effective enforcement action is undertaken during the poll process.
- They supervise the poll process with special emphasis on controlling the abuse of money power, in consultation with the Chief Electoral Officer at respective constituencies.

## 3. Indelible Ink

- In 1962, the Election Commission, in collaboration with the Law Ministry, the National Physical Laboratory of India and the National Research Development Corporation, made an agreement with Mysore Paints and Varnish Ltd. to manufacture ink that couldn't be wiped off easily.
- Mysore Paints was founded in 1937 by Maharaja Krishnaraja Wadiyar IV.
- The company is the sole supplier of indelible ink for the civic body, Assembly and Parliamentary polls.
- It also supplies ink to about 25 countries.
- Indelible ink is known to contain silver nitrate and is manufactured in secrecy.

## G. Tidbits

### 1. EC announces new rules for postal ballot

#### What's in News?

In order to make the procedure to opt for postal ballot more convenient for those above 80 years of age and people with disabilities, the Election Commission has come out with a set of new instructions. The instructions are applicable to all elections and byelections.

- The form required to opt for the postal ballot would be delivered at the residence of all those aged above 80 and people with disabilities by the booth level officer under his polling station.
- It would be up to these two categories of voters to opt for postal ballot.
- The returning officer would deploy polling teams, which will deliver and collect the postal ballot on pre-informed dates and then deposit it with the returning officer.



Read more about Postal Ballots covered in [28<sup>th</sup> October 2019 PIB Summary and Analysis](#).

## 2. Paytm to open 'mini app' store for Indian developers

### What's in News?

Paytm has announced the launch of its mini app store.

### What is mini app?

- The mini apps are custom-built mobile websites that give the users, app-like experience without having to download them.
- They are little downloadable apps that run inside another larger app.

### Details:

- The mini app store aims to support Indian developers in taking their products to the masses.
- More than 300 app-based service providers have joined its new programme that comes with a developer dashboard for analytics and payments collection along with various marketing tools to engage with the users.

## H. UPSC Prelims Practice Questions

Q1. Consider the following statements with respect to Nagorno-Karabakh:

1. It is a mountainous territory bordered by the Caspian Sea in the east.
2. It is internationally recognized as part of Armenia.
3. Lake Sevan is located within Nagorno - Karabakh.

Which of the given statement/s is/are INCORRECT?

- a. 1 only
- b. 1 and 2 only
- c. 1, 2 and 3
- d. None of the above

**CHECK ANSWERS:-**

**Answer: c**

**Explanation:**

- Nagorno-Karabakh, a landlocked mountainous territory has been at the centre of the clashes between Armenia and Azerbaijan.
- It is internationally recognized as part of Azerbaijan.
- Lake Sevan is located in Armenia and is not within Nagorno Karabakh.

Q2. Involuntary administration of Narco analysis test would be an intrusion of which one of the following articles of the Indian Constitution?

- a. Article 18
- b. Article 21
- c. Article 32
- d. Article 25

**CHECK ANSWERS:-**

**Answer: b**

**Explanation:**

- Involuntary administration of Narco analysis test is also widely believed to be an intrusion of the right to privacy of an individual, a right that is guaranteed as a part of the right to life & personal liberty given under [Article 21](#).
- A Supreme Court judgment of 2010 has held that involuntary administration of narco or lie detector tests is an intrusion into a person's mental privacy.

**Q3. Consider the following statements with respect to Insolvency and Bankruptcy Board of India (IBBI) :**

1. Established under the Reserve Bank of India Act of 1934, it is the regulator for overseeing insolvency proceedings.
2. It oversees Insolvency Professional Agencies, Insolvency Professionals and Information Utilities in India.
3. The members of IBBI include representatives from the Ministries of Finance, Law and Corporate Affairs, and the Reserve Bank of India.

**Which of the given statement/s is/are INCORRECT?**

- a. 1 only
- b. 2 and 3 only
- c. 1, 2 and 3
- d. None of the above

**CHECK ANSWERS:-**

**Answer: a**

**Explanation:**

- Insolvency and Bankruptcy Board of India (IBBI) is the regulator for overseeing insolvency proceedings and entities like Insolvency Professional Agencies (IPA), Insolvency Professionals (IP) and Information Utilities (IU) in India.
- It was established in 2016 and given statutory powers through the Insolvency and Bankruptcy Code.
- The members of IBBI include representatives from the Ministries of Finance, Law and Corporate Affairs, and the Reserve Bank of India.

**Q4. Consider the following statements:**

1. India has set a target of 450 GW of renewable capacity by 2030, comprising 100 GW of solar capacity.
2. India is third among the countries with the largest solar capacity in the world.

Which of the given statement/s is/are correct?

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

**CHECK ANSWERS:-**

**Answer: b**

**Explanation:**

- Indi has set a target of 450 GW of renewable capacity by 2030, comprising 300 GW of solar capacity.
- India is third among the countries with the largest solar capacity in the world.

## I. UPSC Mains Practice Questions

1. Discuss the major provisions of the Insolvency and Bankruptcy Code (IBC 2016) and evaluate its significance in the Indian context. Also suggest measures to further streamline the insolvency process under the IBC 2016. (15 marks, 250 words)(GS Paper 3/Economy)
2. Discuss the mandate of the GST Council and also elaborate on its functioning. (10 marks, 150 words)(GS Paper 3/Economy)