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Category: POLITY AND GOVERNANCE

1. No stay on Citizenship Act implementation, says SC

Context:

The Supreme Court has refused to stay the implementation of the Citizenship Amendment Act (CAA), 2019.

Details:

- Chief Justice of India (CJI) Sharad A. Bobde, instead, orally suggested to the government to publicise the actual intent of the Act so that there was no confusion among the public about its objectives and aims.

2. Nirbhaya convicts' view on mercy plea sought

Context:

A Delhi court has asked the Tihar jail authorities to ascertain from the four 2012 Nirbhaya gang rape death row convicts whether they wanted to file mercy petitions with the President.

Details:

- In order to seek **mercy petition**, the death sentence by a sessions (trial) court must be confirmed by the High Court.
- The death sentence convict has an option to appeal to the Supreme Court.
- If the Supreme Court either refuses to hear the appeal or upholds the death sentence, then the convict or his relative can submit a mercy petition to the President of India (Articles 72) or the Governor of the State (161).

Read more about Article 72: [Pardoning Powers of the President](#).

Article 161: Pardoning powers of the Governor

- Similar to the pardoning powers of the President, as per article 161, the Governor of a State has the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence against any law relating to a matter to which the executive power of the State extends.
- President can grant pardon to a person awarded the death sentence, but the Governor of a State does not enjoy this power.
- The power of the President to grant pardon extends in cases where the punishment or sentence is by a Court Martial but Article 161 does not provide any such power to the Governor.

Category: INTERNATIONAL RELATIONS**1. House set to vote to impeach Trump****Context:**

The House of Representatives began debate ahead of a historic vote on two articles of impeachment against President Donald Trump charging him with abusing his office and obstructing Congress that would make him the third U.S. President to be impeached.

Details:

- Trump would become only the third American President to be impeached, an extraordinary check on presidential power spelled out in the U.S. Constitution for executives who commit “high crimes and misdemeanours.”
- No President has ever been removed from office under its terms.
- No US president has ever won re-election after being impeached.
- Andrew Johnson, impeached in 1868, failed to win his party’s next presidential nomination. Bill Clinton, impeached in 1998, stood down when his second term ended in January 2000.

This topic has been covered in 26th September 2019 Comprehensive News Analysis. [Click here](#) to read.

For in-depth analysis on the impeachment of the U.S. President, [watch Explained: How the US President can be impeached](#).

C. GS3 Related

1. 'Bank mergers may pose cybersecurity risks'

Context:

Former executive director of the Reserve Bank of India (RBI) G. Padmanabhan has cautioned that public sector bank mergers were likely to pose security challenges as divergent security solutions and controls get amalgamated.

Details:

- Technology integration is the toughest, the senior banker, who is a non-executive chairman of the Bank of India, said speaking on cybersecurity challenges in the financial sector, at the Institute for Development and Research in Banking Technology (IDRBT).
- "Customisation is varied. Security solutions and controls are divergent. To bring together all such systems over 2-3 years retaining and rebuilding adequate security solutions and processes is a tough task," he said.

Challenges:

- Skill set availability on security is a greater challenge.
- There is a lot of dependency on service providers. There is a significant cybersecurity risk in that a lot of data is going back and forth and held by third parties.
- Though banks chosen for mergers had the same Core Banking Solution (CBS), the versions they used were different.
- Another challenge would be merging of set of controls (SOC) operations of the banks.

Way forward:

- The banks ought to be conscious of the security challenges.
- Banks must focus on security as much as on functionalities or user interfaces.
- Different banks may have a different set of controls and until these are fully merged the weakest link threat needs to be carefully monitored and controlled.

D. GS4 Related

Nothing here for today!!!

E. Editorials

Category: POLITY AND GOVERNANCE

1. A duty to publish

Issues:

The Right to Information Act's role in fostering a more informed citizenry and an accountable government has never been in doubt ever since its implementation in 2005. But there have been persistent and growing misgivings.

- Section 4 of the Act calls for pro-active and voluntary dissemination of information, but only a few Central and State institutions have published relevant information.
 - Rajasthan has taken a lead through its Jan Soochna portal.
- The other problem has been persisting vacancies in the State and [Central Information Commissions](#).

Recent developments:

- The three-judge Bench led by the CJI allowed the request and asked the Centre and States to expedite filling up the vacancies.
- The Supreme Court has directed the Centre and the state governments to appoint within three months information commissioners in the Central Information Commission and the State Information Commissions.
- The CJI also curiously observed that officials were sensing fear leading to paralysis of action due to the working of the RTI, going on to elaborate that the kind of queries that were sometimes being asked was not always in public spirit and was posed by people who had no “locus standi” in the matter regarding the queries.
- It has also said that there is a need to evolve guidelines to stop misuse of the Right to Information Act.

This issue has been covered in 17th December 2019 Comprehensive News Analysis. [Click here](#) to read.

Concerns:

- The argument by the CJI is difficult to accept as the RTI Act explicitly rejects the need for locus standi in Section 6(2) – “an applicant making request for information shall not be required to give any reason for requesting the information...”.
- This clause is present for vital reasons – seeking locus standi in order to respond to public requests could result in a chilling effect as public authorities (PAs) could choose to deny information to general citizens on subjective grounds.
- Besides, information commissioners and public officials have the authority to reject requests based on criteria that enable exemption from information disclosure.
- Data on RTI requests since 2005 show that the yearly rejection rate (requests rejected as a percentage of those received) has come down steadily to 4.7% in 2018-19. A change in the Act that seeks locus standi as a criterion could dramatically increase this number.
- A Transparency Audit report submitted to the Central Information Commission (CIC) in 2018 sought feedback from the PAs under the CIC to evaluate implementation of Section 4 of the Act.
 - Only 838 (40%) responded and even here, 35% of the PAs fared poorly with little transparency in parameters such as organisation and functions, budget and programme, e-governance, and other information disclosures.

Way forward:

- One of the key misgivings with RTI implementation has been the persisting problem of vacancies in the CIC and State commissions – the CIC has four vacancies and 33,000 pending cases. After the top court’s directions, this lacuna should be addressed by governments quickly.
- Rather than focusing on locus standi, public authorities would be advised to provide for greater voluntary dissemination on government portals, which should ease their load.

2. The rhetoric and reality of capital punishment

Context:

The **Supreme Court** has dismissed the review petitions by all four convicts in the Nirbhaya rape and murder case.

Examining the empirical evidence on the topic of ‘death penalty’:

- With the experience of the past century, it is clear that the death penalty as a measure to end sexual violence has completely failed.
- In 1965, only 23 nations had abolished the death penalty. Today, over two-thirds of countries have given up on capital punishment either in law or in practice.
- The standards by which nations conduct themselves have evolved. But, in India, we continue to go against the tide.

Against the “Theory of Punishment”:

- In the system of criminal justice worldwide, including in India, underpinning the element of sentencing is the ‘Theory of Punishment’. This is classical law, proved so by having stood the test of time for centuries.
- It stipulates that there should be four elements of a systematic punishment imposed by the state:
 - the protection of society;
 - the deterrence of criminality;
 - the rehabilitation and reform of the criminal;
 - the retributive effect for the victims and society.
- **Protection of society:** The ‘protection of society,’ is not served by imposing the death sentence any better than by imprisonment. This has been proven time and again as inmates have spent decades on death row, harming no one, but being brutalised by the inhuman punishment meted out to them.
- **Deterrence of criminality:** There are several factors which affect criminal activity and deterrence is only one of them. In a UN survey, it was concluded that “capital punishment deters murder to a marginally greater extent than the threat of life imprisonment.” The report of the Justice J.S. Verma Committee said that capital punishment is a regressive step and may not provide deterrence. The committee recommended the life sentence for the most grievous of crimes.
- **Rehabilitation and reform of the criminal:** The ‘reform and rehabilitation of the criminal’ are immediately nullified by the prospect of capital punishment.
- **Retributive effect for the victim and the society:** Killing should never be carried out based on the primal and emotive desire among human beings for revenge. Revenge is a personalised and emotional form of retribution, which often loses sight of proportionality.

Against natural justice:

- Capital punishment, in its very essence, goes against the spirit of the ‘Theory of Punishment’, and by extension, natural justice.
- A comparative study of death row conflicts shows that the jurisprudence in this regard is skewed against the weaker sections.
- Justice P.N. Bhagwati said that “death penalty in its actual operation is discriminatory for it strikes mostly against the poor and deprived”.
- The reasons include lack of adequate legal assistance to the marginalised.
- The Death Penalty Project has conclusively shown the manner in which wrongful capital sentencing is carried out.
 - In the United States alone, over 350 people have reportedly been wrongfully sentenced in the last century.

Conclusion:

Hence, in the light of the recent incidents of heinous violence perpetrated against women, it becomes imperative for the judiciary to not give in to the public clamour for making capital punishment mandatory for rape convicts. Public angst and emotions cannot be an alternative to reason and logic. There needs to be better enforcement of law in response to valid questions on justice but death penalty holds no answers.

F. Tidbits

1. Sahitya Akademi awards

What's in News?

The Sahitya Akademi has announced its annual literary awards for 2019 for works in 23 languages, including one for Shashi Tharoor's non-fiction book about British rule in India.

This topic has been covered in 18th December PIB Summary and analysis. [Click here to read.](#)

2. 'High prevalence of pre-diabetes in Rajasthan'

- A new study on diabetes prevalence, sponsored by the Indian Council of Medical Research (ICMR), has revealed that the number of persons with pre-diabetes in Rajasthan has increased faster than those with diabetes.
- The prevalence of pre-diabetes at 15.2% in Rajasthan's population is the same as that in 15 more developed States, while the persons with diabetes are lesser in number.
- The ICMR-India Diabetes Study covered Rajasthan in its third phase through extensive surveys in both urban and rural areas, in which the data on demographic and socio-economic parameters as well as behavioural aspects, including tobacco use, alcohol use and physical activity, was obtained.
- The surveyors also collected information on family history of diabetes and heart disease in the cross-sectional study.
- 7% of the State's population was found suffering from diabetes mellitus.
- The epidemiological study, which was one of the largest in the world, was designed to provide estimates for pre-diabetes, dyslipidemia, hypertension, obesity and the level of glycemic control among the confirmed cases of diabetes. The community-based surveys conducted by the field volunteers covered the adults of either sex aged above 20 years.

Read more about [Diabetes](#).

3. Bangladesh gives river panel meet a miss

- Bangladesh did not send a delegation for the Joint River Commission (JRC) meeting with India that was scheduled to be held in India.
- This has cast a shadow over the agreement to share the waters of the Feni river, that was taken up during the visit of Prime Minister Sheikh Hasina to India.
- A joint statement issued after Ms. Hasina's meeting with Prime Minister Narendra Modi had laid down the agenda of the JRC, declaring that the technical-level committee of the JRC was to firm up the draft framework agreement of the interim sharing of the Feni river's waters with Tripura.
- Bangladesh had agreed to let India withdraw 1.82 cusecs from the river to supply the border town of Sabroom in the northeastern State.
- That apart, the meeting cancellation is expected to delay the preparation of the draft framework for the Interim Sharing Agreements regarding the Manu, Muhuri, Khowai, Gomati, Dharla and Dudhkumar rivers that were also mentioned in the Joint Statement.
- It is believed that the cancellations indicate Dhaka's displeasure over repeated reference by India's political leadership to the alleged persecution of religious minorities in Bangladesh.

4. Sri Lanka Supreme Court rules against custodial death

- Sri Lanka's Supreme Court has ruled against a case of custodial death, ordering seven police personnel and the state to pay a total compensation of LKR 2 million (about Rs. 8 lakh) to the

- victim's family.
- "It is the State's responsibility to protect every citizen of this country. In the instant case, I find that the State has failed its responsibility and has violated the Fundamental Rights of the deceased," Justice S. Thirairaja ruled, with the other two judges on the bench agreeing.
- The order pertains to a fundamental rights petition filed that the petitioner's husband had been arrested and "killed" by the police who thereafter "fabricated a version to justify the killing".
- Almost a decade ago, in September 2010, police arrested the petitioner's husband over his suspected involvement in a murder in the area. Days after the suspect's arrest, the family was informed that he was shot and taken to a hospital, where he was declared dead.
- In a strongly-worded ruling, the Supreme Court judge observed that had the deceased been a person involved in grave crimes, as claimed by the police, then the police should have been more careful in handling him.
- The judge cited a 1974 U.S. Supreme Court judgment that said: "[A] prisoner is not wholly stripped of constitutional protections when he is imprisoned for crime. There is no iron curtain drawn between the Constitution and the prisons..."
- The judgment is welcome, as it is believed to be a classic case of a death in police custody. It sends out a strong message to the police that even in cases where a suspect is allegedly involved in a heinous crime, the suspect's fundamental rights must be protected.
- The judgment is especially significant since such police action against suspects is sometimes popular among the public, depending on the crime.

5. Germany bans gay 'conversion therapy'

- The German government signed off on a new law banning "conversion therapies" designed to force heterosexuality on homosexuals.
- The legislation, set to be introduced in 2020, would see the practice made punishable with up to a year in prison and fines of up to €30,000 (\$33,000).
- Once it is approved, Germany would be only the second European country with such a ban after Malta passed similar legislation in 2016.

G. Prelims Facts

Nothing here for today!!!

H. Practice Questions for UPSC Prelims Exam

Q1. Consider the following statements:

1. There is no time limit for the President to respond to a mercy petition.
2. The mercy petition is not subject to Judicial Review.
3. In India, the authority to decide on mercy petitions rests with the President and the Governor.

Which among the above statements is/are correct?

- a. 1 and 2 only
- b. 1 and 3 only
- c. 2 and 3 only
- d. 1, 2 and 3

Answer: b

Explanation:

- There is no maximum time-limit within which a mercy petition has to be decided.
- The mercy petition is subject to Judicial Review.
- In India, the authority to decide on mercy petitions rests with the President and the Governor.

Q2. Consider the following statements:

1. Bangladesh shares 57 trans-boundary rivers with India.
2. Bangladesh is surrounded on three sides by India.
3. The country has a gigantic delta formed by the alluvial deposits of the Ganges, the Brahmaputra and the Meghna.

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

- a. 1 and 2 only
- b. 2 and 3 only
- c. 2 only
- d. 1 and 3 only

Answer: b

Explanation:

There are more than 300 rivers in Bangladesh of which 57 are trans-boundary rivers. Out of the 57 transboundary rivers, 54 are common with India and remaining 3 with Myanmar. The country is surrounded on three sides by India. It has a gigantic delta formed by the alluvial deposits of the three rivers: the Ganges, the Brahmaputra and the Meghna.

Q3. Consider the following:

1. Remission: Reduction of punishment without changing the nature of the punishment.
2. Pardon: Completely absolving the person of the crime and letting him/her go free.
3. Commute: Reduction of the type of punishment into a less harsh one.

Which of the above is/are correct?

- a. 1 only
- b. 1 and 3 only
- c. 2 and 3 only
- d. 1, 2 and 3

Answer: d

Explanation:

Self-explanatory.

Q4. Consider the following statements with respect to the National Company Law Appellate Tribunal (NCLAT) :

1. It hears appeals against the orders of the National Company Law Tribunal(s) (NCLT).
2. It is the Appellate Tribunal for hearing appeals against the orders passed by the Insolvency and Bankruptcy Board of India.
3. It is the Appellate Tribunal to hear and dispose of appeals against any direction issued or decision made or order passed by the Competition Commission of India (CCI).

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

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

Answer: d

Explanation:

National Company Law Appellate Tribunal (NCLAT) was constituted under the Companies Act, 2013.

- It hears appeals against the orders of National Company Law Tribunal(s) (NCLT), with effect from 1st June 2016.
- It is the Appellate Tribunal for hearing appeals against the orders passed by NCLT(s) under Section 61 of the Insolvency and Bankruptcy Code, 2016 (IBC).
- It is the Appellate Tribunal for hearing appeals against the orders passed by Insolvency and Bankruptcy Board of India under Section 202 and Section 211 of IBC.
- It is the Appellate Tribunal to hear and dispose of appeals against any direction issued or decision made or order passed by the Competition Commission of India (CCI).

I. Practice Questions for UPSC Mains Exam

1. Discuss the technological challenges involved in the merger of Banks. (10 Marks, 150 Words).
2. "A reasonable man is deterred not by the gravity of the sentence but by the detectability of the crime". In light of this statement, critically examine if Capital Punishment can be used as a tool for

deterrence of criminality. (15 Marks, 250 Words).