

11 Aug 2021: UPSC Exam Comprehensive News Analysis

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B. GS 2 Related

Category: POLITY AND GOVERNANCE

1. [LS clears Bill restoring States' rights to specify OBC groups](#)

Context:

- The passing of the **127th Constitution Amendment Bill, 2021** in Lok Sabha.

Background:

Constitutional provisions relating to reservation:

- As per the Indian Constitution, Articles 15 (4), 15 (5), and 16 (4) confer power on the governments to declare and identify the list of socially and educationally backward classes.
- As a practice, separate OBC lists are drawn up by the Central Government and each State concerned.

102nd Constitutional Amendment:

- The Amendment established a **National Commission for Backward Classes** by adding **Article 338B to the Constitution**.
- The Amendment also added **Article 342A**, under which the **President shall notify a list of Socially and Economically Backward Classes (SEBC)** in relation to each State and Union Territory, in consultation with Governors of the respective States. Once this 'Central List' is notified, **only Parliament could make inclusions or exclusions in the list by law**.

Supreme Court Verdict in the Maratha reservation issue:

- While holding the Maratha reservation unconstitutional, the Constitution Bench of the Supreme Court also dealt with the issue of the [102nd Constitution Amendment](#).
- The SC **upheld the 102nd Constitutional Amendment Act** that inserted Articles 338B and 342 A.
- The constitutional bench had ruled that after the passage of the 102nd Constitution Amendment Act in 2018, **the States do not have any power to identify 'socially and educationally backward' (SEBC) classes** and this power lay in the hands of only the Union government.

For more information on the SC verdict in the case, refer to the following article:

[**UPSC Comprehensive News Analysis of 6th May 2021**](#)

Details:

- The Amendment Bill will **amend clauses 1 and 2 of Article 342A** and will also introduce a new clause 3.
- The 127th Constitution Amendment Bill is designed to clarify that the State Governments can maintain the 'state list' of OBCs as was the system prior to SC judgment. The latest '**State List**'

will be taken out completely of the ambit of the President and will be notified by the State Assembly as per the proposed bill.

Significance:

- The Bill seeks to **restore the power of State governments to identify OBCs** that are socially and educationally backward.
 - The Union government's argument has been that the intent of the 102nd amendment was only to create a Central List that would be applied only in the Central government and its institutions. It had nothing to do with the State Lists of backward classes or the State governments' powers to declare a community backward.
- The bill will benefit around 671 OBC communities because if the state list had been abolished, nearly 671 OBC communities would have lost access to reservations in educational institutions and in appointments.

Calls for removal of 50% cap on reservations:

- During the discussions on the proposed amendment, there were **calls from lawmakers across parties to remove the 50% ceiling in reservations.**
 - In the [1992 Indra Sawhney & Others v. Union of India judgment](#), the Supreme Court had imposed a ceiling of 50 per cent for reservation quota.
 - Notably, at least three Indian States - Haryana, Tamil Nadu, and Chhattisgarh - have introduced quotas that breach the total 50% ceiling. On the other hand, states like Gujarat, Rajasthan, Jharkhand, and Karnataka have asked the Supreme Court to hike the quota ceiling.
 - The SC in the Maratha reservation issue had held that extending the 50% limit would be tantamount to establishing a society based on caste rule rather than one founded on equality. It reiterated that **reservation under Article 16(4) should not exceed 50% except in extraordinary circumstances.**

Additional information:

- The First Backward Classes Commission was set up by a presidential order in 1953 under the chairmanship of Kaka Kalelkar. It is also known as the First Backward Classes Commission or the **Kaka Kalelkar Commission.**
 - **Article 340 in the Constitution of India** allows for the appointment of a Commission to investigate the conditions of backward classes.
- The [Mandal Commission](#), the **Socially and Educationally Backward Classes Commission (SEBC)**, was established in 1979 with a mandate to "identify the socially or educationally backward classes" of India.

2. Parties get 48 hours to publish candidates' criminal records

Background:

February 2020 judgment of the Supreme Court:

- Over the last few years, there has been an **alarming increase in the incidence of criminals in politics**.

For detailed information on the issue of criminalization of politics, refer to the following article:

[UPSC Comprehensive News Analysis of 10th July 2020](#)

- Based on the reasoning that rapid criminalisation of politics cannot be arrested by merely disqualifying tainted legislators but should involve cleansing of the political parties, the **Supreme Court had ordered political parties to publish the entire criminal history of their candidates** along with the reasons that provoked them to field suspected criminals over decent people.
- The information had to be **also published in a local and a national newspaper, as well as the parties' social media handles**, including Twitter and Facebook.
- The political parties had to submit compliance reports with the [Election Commission of India](#) within 72 hours or risk contempt of court action.

For more information on this judgement, refer to the following article:

[UPSC Comprehensive News Analysis of 14th Feb 2020](#)

Details:

- The Supreme Court has **imposed fines on major political parties, for failing to conform with its February 2020 judgment** in the 2020 Bihar Assembly elections.
- The court held that the concerned parties had subverted the verdict by either **publishing inadequate information about their candidates' criminal antecedents or by printing them in obscure newspapers**. The Supreme Court held that the concerned political parties were trying to cover up from voters the criminal past of the candidates they had fielded.

Modifications in the February 2020 judgment:

- In order to make the right of information of a voter more effective, the court has ordered certain modifications in its February judgment.
 - The Election Commission of India has been ordered to launch a **dedicated mobile app for voters to get details of the criminal history of the candidates**.
 - The Election Commission of India has also been ordered to form a **separate cell to monitor political parties on their compliance with the court's judgment**.

3. HC nod must to close cases against lawmakers

Background:

Concerns with respect to trial and prosecution of criminal politicians:

- Various State governments have used power vested under Section 321 CrPC to **withdraw criminal cases pending against sitting MP/MLA**.
- **Government investigation agencies have delayed filing affidavits or have filed sketchy affidavits** about their cases against sitting and former MPs and MLAs. This makes it easy for the accused MP/MLA to delay/evade judicial scrutiny.

Details:

- The use of government power and influence to shield criminal politicians brings to **question the government's resolve to bring criminal politicians to justice** and this does not augur well for a democracy where the rule of law is paramount.
- Lamenting the lack of government commitment towards the speedy trial and prosecution of criminal politicians, the **three-judge Bench led by the Chief Justice of India has come up with a list of recommendations** in this direction.
 - A criminal case against an MP or MLA can be withdrawn only after getting the consent of the State High Court concerned.
 - The SC has suggested the formation of a **Special Bench to monitor the progress of investigation and trial of criminal cases involving politicians**.
 - To ensure expeditious disposal of pending cases, a **freeze on the transfer of judicial officers** trying criminal cases against MPs and MLAs has been ordered.
 - **Virtual court facilities** to be improved to allow the adoption of video conferencing facilities to examine witnesses. This will allow for the speedy disposal of cases.

C. GS 3 Related

Category: INTERNAL SECURITY

1. NE border disputes have killed 157 people since 1979, says rights group

Context:

- Findings of the New Delhi-based rights group on the **impact of the border disputes among the Northeastern states.**

Background:

Border disputes in North-eastern India:

- Border disputes between various states in Northeast India have been **recurring since the 1960s**. Assam-Mizoram, Assam-Nagaland, Assam-Arunachal Pradesh and Assam-Meghalaya border disputes have been the most prominent ones.
- Almost all these border disputes have their origins in colonial times and reflect the **consequences of the British policy of creating and recreating boundaries for administrative convenience based on annexation and exploration** of territories in the region.
- These disputes **emerged after states such as Nagaland, Meghalaya, Arunachal Pradesh and Mizoram were carved out of undivided Assam.**
 - Meghalaya, Mizoram and Nagaland were carved out of Assam between 1963 and 1972. Arunachal Pradesh, formerly known as the North East Frontier Agency, was annexed to Assam until it became a Union Territory in 1972.

Concerns:

- The inter-state border disputes in the Northeast have persisted for long. **Several attempts at resolving these disputes have been unsuccessful.** The recommendations of the Union government or the Supreme Court appointed commissions have been rejected by the concerned state governments.
- Non-resolution of these disputes has given rise to strong community sentiments among states concerned and resultantly **vitiating the inter-state relations.** The border disputes have become highly politicised. This could prove **disastrous for a region whose security situation remains jeopardised by insurgency.**

Details:

- As per the report, 157 people have been killed in border disputes across the Northeast since 1979. Also, around 361 have been injured and 65,000 displaced.

Recommendations:

- The need of the hour is to **shape public opinion for peaceful borders and redouble efforts for a political solution to these decades-old disputes.**
- The states should **maintain status quo** till the disputes are resolved. There should be joint enforcement of law and order along the line of de facto control and biometric documentation of the residents living within the disputed areas for prohibiting settlement in new areas.

D. GS 4 Related

Nothing here for today!!!

E. Editorials

Category: INTERNATIONAL RELATIONS

1. Choppy waters: On global maritime security

The article talks about the need for ratification of the [United Nations Convention on the Law of the Sea](#) by all the maritime powers, including the U.S.

Context:

- As part of India's United Nations Security Council (UNSC) presidency, the Indian Prime Minister chaired a debate on maritime security titled, 'Enhancing Maritime Security — A Case for International Cooperation'.
- The focus of the discussion was on building maritime ties and developing maritime infrastructure through regional cooperation initiatives.
- He presented a five-prong plan to enhance maritime security worldwide.

This topic has been covered in [Aug 10th, 2021 CNA.](#)

Details:

- The acceptance of the legislative framework for UNCLOS, the "legal framework applicable to activities in the oceans, including countering illicit activities at sea", is seen as an important achievement during India's presidency at UNSC.
- The sustained interest of India in promoting maritime security also draws from the Prime Minister's [SAGAR vision](#) plan.

- SAGAR is aimed at strengthening economic and security connections with regional maritime nations.

Issue:

- The strategic barriers to building momentum in achieving these goals are associated with specific regions of maritime tension.
- Major nations such as the U.S, China and Russia are engaged in strident claims and counterclaims regarding allegations of abuse of maritime resources and disrespect of territorial sovereignty.
- There are tensions in and around the South China Sea, the Black Sea, the Kerch Strait, the Sea of Azov.
- There have been dangerous encounters between vessels at sea and provocative actions to advance unlawful maritime claims.
- Island-building, bullying states from lawfully accessing their maritime resources have been a source of international concern.
- There seems to be a lack of harmony in the sphere of global maritime security.

Way Forward:

- Despite India's presidency at the UNSC being brief, its sustained commitment to promoting maritime security and boosting trade through sea routes, India must skillfully negotiate with these squabbling powers.
- Need of the hour is creative solutions for resolving the conflicts at the heart of their disputes.
- While critics condemn UNCLOS for lacking powers for enforcement, ultimately it is the only comprehensive framework of laws available to maritime powers to assert their rights consistent with the rules-based international order.

Conclusion:

India-led UN Security Council session recently highlighted the primacy of the UNCLOS. India must make the best use of its UNSC presidency and beyond to advocate for ratification of UNCLOS by all major maritime powers, including the U.S.

Category: POLITY AND GOVERNANCE

1. Undermining justice

The article talks about the vacancies in courts, tribunals.

Issue:

- In the recent past, the Supreme Court has voiced concern over the Government's lackadaisical attitude towards the large number of vacancies in High Courts and tribunals.
- The Supreme Court lashed out against the central government over long delays in the appointment of judges to High Courts.
- Furthermore, Chief Justice of India N.V. Ramana confronted the Government with a list of 240 vacancies in various tribunals.
 - Many tribunals lack presiding officers and recommendations made by selection committees have not been acted upon.

This topic has been covered in [Aug 7th, 2021 CNA.](#)

Concerns:**Vacancies in Tribunals:**

- The jurisdiction previously exercised by High Courts is now being exercised by the tribunals. The failure to adjudicate or dispose of disputes in these fields would amount to a denial of justice to the parties.
- Concerns have been raised on independent functioning of tribunals being undermined by repeatedly framing rules that seek to provide for greater executive control over the tenure, emoluments and conditions of service of those heading the tribunals.
- The primary reasons why certain kinds of disputes were allocated to the tribunals was specialisation, domain expertise and relatively quicker adjudication.
 - These purposes are lost as the tribunals have become nearly dysfunctional through a large number of vacancies.
- Besides, the Union government has been reluctant to create a national body for overseeing the work related to the appointment of members on tribunals as well as the appraisal of their functioning.

Vacancies in High Courts:

- The vacancies in High Courts are as high as 455, in 2021.
- A two-judge Bench has noted that the delay in making appointments to the High Courts is adversely affecting the adjudication of high-stake commercial disputes.
- The Centre's long delay to act on the recommendations of the Collegium and appoint judges to High Courts has left the courts with minimal judicial strength and has adversely affected the early adjudication of important cases.
- There is little clarity on what is causing the delay for appointments in the higher judiciary. It could be a:

- Dispute over the memorandum of procedure. The appointment of the judges to the high courts is governed by Article 217 of the Constitution. In addition to the constitutional provisions, the process of appointments outlined in the Memorandum of Procedure (MoP) is a lengthy one.
- The desire of the executive to subject the Collegium recommendations to its own political scrutiny.

Conclusion:

The government must realise that early adjudication of commercial disputes is a necessity for which there has to be an adequate number of judges. The delay in judicial appointments and appointments to the tribunals is causing great harm to India's justice delivery system.

F. Prelims Facts

1. Home Ministry flags illegal migration

- **India is not a signatory to the 1951 [UN Convention relating to the Status of Refugees](#) and the 1967 Protocol thereon.**
- All foreign nationals (including refuge seekers) are governed by the provisions contained in the Foreigners Act, 1946; the Registration of Foreigners Act, 1939; the Passport (Entry into India) Act, 1920 and the Citizenship Act, 1955, and rules and orders made thereunder.
- Foreign nationals who enter the country without valid travel documents are treated as illegal migrants.

G. Tidbits

1. Price pressures to smoothen out in coming months: Ministry

- In the monthly economic report for July, the Department of Economic Affairs has **attributed the recent inflation to adverse supply shocks due to the pandemic and elevated international commodity prices.**
- It expects inflation pressures to decrease in the coming months.

H. UPSC Prelims Practice Questions

Q1. Consider the following statements with respect to International Seabed Authority (ISA):

1. It is an autonomous international organization established under the 1982 United Nations Convention on the Law of the Sea (UNCLOS).
2. It makes binding recommendations to coastal States on matters related to the establishment of outer limits of the continental shelf extending beyond 200 nautical miles from the baselines.
3. All mineral-related activities in the international seabed area beyond the limits of national jurisdiction are regulated by ISA.
4. ISA is committed to contributing to the timely and effective implementation of SDG-6 in particular.

Which of the given statements is/are correct?

- a. 1 and 2 only
- b. 1, 2 and 3 only
- c. 1 and 3 only
- d. 1, 2 and 4 only

Answer: c

Explanation:

- The International Seabed Authority (ISA) based in Kingston, Jamaica is an intergovernmental body established by the United Nations Convention on the Law of the Sea.
- It was established to organize, regulate and control all mineral-related activities in the international seabed area beyond the limits of national jurisdiction.
- The Commission on the Limits of the Continental Shelf deals with the establishment of the outer limits of the continental shelf beyond 200 nautical miles. Under the UNCLOS, the coastal State shall establish the outer limits of its continental shelf where it extends beyond 200 M on the basis of the recommendation of the Commission.
- ISA is committed to contributing to the timely and effective implementation of the SDGs, in particular, SDG14 to conserve and sustainably use the oceans, seas and marine resources for sustainable development.

Q2. Global Environment Facility functions as a financial mechanism for which of the following convention/s?

1. Minamata Convention on Mercury
2. Stockholm Convention on Persistent Organic Pollutants (POPs)
3. United Nations Convention on Biological Diversity (UNCBD)
4. United Nations Convention to Combat Desertification (UNCCD)
5. United Nations Framework Convention on Climate Change (UNFCCC)

Options:

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

Answer: d

Explanation:

- The GEF serves as a "financial mechanism" to five conventions: Convention on Biological Diversity (CBD), United Nations Framework Convention on Climate Change (UNFCCC), Stockholm Convention on Persistent Organic Pollutants (POPs), UN Convention to Combat Desertification (UNCCD), and Minamata Convention on Mercury.

Q3. He started a movement in the Bihar and Jharkhand belt in the 19th century under British colonial rule. As a result of his struggle, the Chotanagpur Tenancy Act was passed in 1908. He is also known as 'Dharti Abba'.

The tribal leader being talked about is:

- a. Kanhu Murmu
- b. Birsa Munda
- c. Tirut Singh
- d. Bar-Manik

Answer: b

Explanation:

- Birsa Munda was a tribal freedom fighter hailing from the Munda tribe. He was also known as 'Dharti Abba' or the Earth Father.
- He was a spearhead behind the Millenarian movement that arose in the Bihar and Jharkhand belt in the early 19th century under British colonial rule.
- Birsa started a movement called 'Ulgulan', or 'The Great Tumult'. His struggle against the exploitation and discrimination against tribals led to a big hit against the British government in the form of the Chotanagpur Tenancy Act being passed in 1908. The act restricted the passing on of land from the tribal people to non-tribals.

Q4. Which of these mountain passes is/are located in Ladakh?

1. Zoji La
2. Nathu La
3. Bomdi La
4. Muling La

Option:

- a. 1 and 4 only
- b. 2 and 3 only
- c. 1 only
- d. 1, 3 and 4

Answer: c

Explanation:

- Nathu La: Sikkim
- Bomdi La: Arunachal Pradesh
- Muling La: Uttarakhand

Q5. “Momentum for Change: Climate Neutral Now” is an initiative launched by: (UPSC-2018)

- a. The Intergovernmental Panel on climate change
- b. The UNEP Secretariat
- c. The UNFCCC Secretariat
- d. The World Meteorological Organization

Answer: c

Explanation:

- The UNFCCC Secretariat launched its Climate Neutral Now initiative in 2015. The following year, the secretariat launched a new pillar under its Momentum for Change initiative focused on Climate Neutral Now, as part of larger efforts to showcase successful climate action around the world.

I. UPSC Mains Practice Questions

1. ‘To change 50% reservation limit is to have a society which is not founded on equality but based on caste rule’. Critically analyse. (10 marks, 150 words) (GS paper 2/Polity and Governance)

2. UNCLOS is almost universally lauded for laying down laws and rules whose wide acceptance it is believed has greatly reduced the number, frequency and potential for inter-state conflicts that would otherwise have taken place. Comment. (10 marks, 150 words) (GS Paper 2/International Relations)

