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POLITY & INTERNATIONAL RELATIONS I

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POLITY & INTERNATIONAL RELATIONS I

(JUNE 2019 TO DECEMBER 2019)

POLITY

1. RIGHTS ISSUES

1.1 Maratha Reservation

The Bombay High Court verdict has recently upheld the Maharashtra government's law on reservation for Marathas.

- The law had conferred reservation benefits in education and public employment on the Maratha community.
- It created a group called Socially and Educationally Backward Class (SEBC).
- SEBC had included Marathas as the sole group under the category, and extended 16% reservation.
- Previously, the the total reservation in the state is 52%, of which the larger quotas are for SC (13%), ST (7%) and OBC (19%).
- Thus, this additional Maratha component takes the **reservation up to 68%** (Goes beyond the limit of 50% imposed by the Supreme Court).
- **Supreme Court Ruling** – According to the judgment in **Indra Sawhney vs Union of India case, 1992,** the total reservation for SC/ST and other backward classes or special categories should not exceed 50%.
- However, the HC has upheld the government's decision to accept the Maharashtra Backward Classes Commission's report on the backwardness of the Maratha community.
- It ruled that there were "exceptional circumstances and an extraordinary situation" to warrant the crossing the 50% limit.
- It said that the failure to treat this group as backward for decades has pushed it into social and educational backwardness.
- Thus, it says, this is an extraordinary situation wherein the State had to treat them as a separate category.
- It faulted the government for exceeding the panel's recommendation for 12-13% reservation and pulled back the figure.
- Problems –It is doubtful whether a **politically influential and dominant community** can be treated as a special category in itself.
- Marathas are the **only member** of the newly created '**SEBC**'. It is confusing how can **SEBC be a separate category** outside the OBCs.
- As **mere expansion of the reservation** pool is unlikely to be a constitutionally permissible reason, exception to the 50% limit should be examined by the Supreme Court closely.

1.2 Removal of Sikh Names from Central Adverse List

The Centre has removed names of 312 Sikh foreign nationals involved in anti-India activities from its blacklist/the Central Adverse List.

- The Ministry of Home Affairs maintains a list officially named as the "Central Adverse List" which has more than 35,000 names on it.
- It includes the names of individuals who supported the Khalistan movement in 1980s and 1990s but left India to take asylum in foreign countries.
- These are those who were in favour of a separate Sikh state and had opposed the Operation Blue Star.

- Many of the Sikhs on this list fled India to escape the authorities and acquired foreign nationality and took asylum outside India.
- This list is not restricted to Punjab or the Khalistan movement alone.
- It has names of those individuals who are suspected to have links with terrorist outfits or have violated visa norms in their previous visit to India.
- The list also includes the names of those persons who have indulged in criminal activities or have been accused of sexual crimes against children in their respective countries.
- This list is constantly used by all Indian Missions and Consulates to stop the individuals named in it from entering India by not granting visa to such persons.
- Various intelligence agencies constantly review this list and add new names to it.
- Central intelligence agencies as well as the state-level intelligence contributes to the information, determining the inclusion of a person in this list.
- Since law and order is a state subject, the state police are also utilized for intelligence gathering in order to update the list.
- **Recent decision -** Most of the Sikh nationals in the list have remained outside the country since the 1980s and have not visited their families since then.
- With the names being removed, they can now visit India and meet their families here.
- They could also get access to consular services as well as an Indian visa.
- This list had a multiplier effect in denying visas as the family members of the persons on this list were also denied visas to other countries.
- Such a practice will no longer be carried forward.

1.3 Section 144 & Curfew

Recently Jammu and Kashmir government have imposed restrictions in Srinagar under Section 144 (Unlawful assembly) of CrPC.

- Section 144 ofCrPC is a law retained from the colonial era.
- It empowers certain functionaries to issue orders to prevent and address urgent cases of apprehended danger or nuisance.
- These include district magistrate, sub-divisional magistrate or any other executive magistrate specially empowered by the state government in this regard.
- The magistrate has to pass a written order which may be directed -
    i. against a particular individual, (or)
    ii. to persons residing in a particular place or area, (or)
    iii. to the public generally, when they frequent or visit a particular place or area
- In emergency cases, the magistrate can pass these orders without prior notice to the individual against whom the order is directed.
- **Power of Administrators -** The magistrate can direct any person to abstain from a certain act or to take a certain order with respect to certain property in his/her possession or management.
- This usually includes restrictions on movement, carrying arms and from assembling unlawfully.
- It is generally believed that assembly of three or more people is prohibited under Section 144.
- However, it can be used to restrict even a single individual.
- This is done when the magistrate considers that it is likely to prevent, or tends to prevent, obstruction, annoyance or injury to any person.
- It is also employed to prevent danger to human life, health or safety, or a disturbance of the public tranquility, or a riot.

- It can remain in force for not more than 2 months.
- However, if the state government considers it necessary for preventing danger, it can extend for not more than 6 months from the date of issuance of the initial order.
- It can be withdrawn at any point of time.
- It also bans all civilians from carrying of weapons including lathis, sharp-edged weapons or firearms in public places. (Exception for police or paramilitary or security forces).
- If someone violates Section 144, the person can be booked for "engaging in rioting".
- The maximum punishment for such act is three years.
- Difference between prohibitory orders under 'Section 144' and 'curfew', are
    - Curfew orders are issued in more severe situations where people are instructed to stay indoors for a specific period.
    - Establishments such as markets, schools, colleges, etc. are ordered to remain shut.
    - Only essential services are allowed to run on prior notice. There is a complete restriction on traffic as well.
- The orders of curfew can be for a specific group or for the general public.
- The immediate remedy against such an order is a revision application to the magistrate himself.
- An aggrieved individual can approach the High Court by filing a writ petition if his/her fundamental rights are at stake.
- **Section 144 and communication blockade** - The Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules, 2017 are for suspending telecommunication services.
- They include services covering voice, mobile internet, SMS, landline, fixed broadband, etc.
- These Rules derive their powers from the Indian Telegraph Act of 1885, Section 5(2).
- It talks about interception of messages in the "interests of the sovereignty and integrity of India".
- However, shutdowns in India are not always under the rules laid down, which come with safeguards and procedures.
- Section 144 of CrPC has often been used to clamp down on telecommunication services and order Internet shutdowns.

1.4 Suspension of Habeas Corpus

A judgment of the Supreme Court of India on April 28, 1976 allowed the suspension of the writ of habeas corpus during Emergency. (Habeas Corpus Case)

- The implications of the judgement now find relevance with the Kashmir issue.
- **Key rulings**- The protective law which gives citizens security and confidence in times of tranquility has to give way to interest of the State in period of public danger of apprehension.
- Enforceability, as an attribute of a legal right, and the power of the judicial organs of the State to enforce the right, are exclusively for the State to confer or take away in the legally authorised manner.
- Personal liberty is but one of the Fundamental Rights. Therefore, the suspension of the right to enforce the right conferred by Article 21 means the suspension of the right to file a habeas corpus petition.
- It also means the suspension of any other proceeding to enforce the right to personal liberty conferred by Article 21.
- Even if a person is detained otherwise than in accordance with the law, he shall not be entitled to enforce the right of personal liberty, if Presidential order under Article 359, clause (1) specifying Article 21 is in operation.
- The judgement was perceived by many as an anti-constitutional and anti-people decision.
- Today, there is no Emergency, yet the constitutional and basic rights of many have been suspended in Jammu and Kashmir (J&K).
- Worryingly, the Supreme Court has virtually taken away their constitutional remedy to enforce those rights.

- A writ petition challenged the imposition of restrictions in Jammu and Kashmir, following the abrogation of Article 370.
- The court merely accepted the pleas of the Attorney General on behalf of Centre.
- [It was argued that there was a need to ensure that law and order situation in Jammu and Kashmir is maintained and that it would take a few days to return to normalcy.]
- This means that the top court, the custodian of the right to life and liberty, had handed over its duty to the Central government.

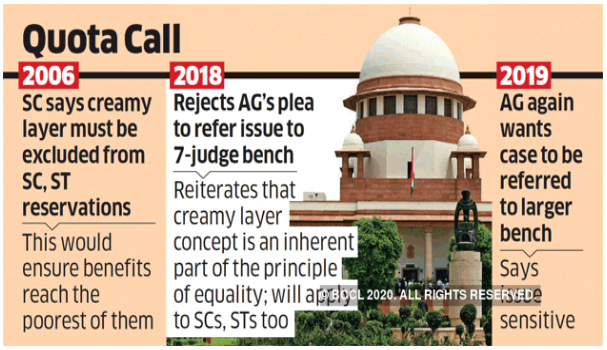
1.5 HC guidelines on Article 25

- HC of Karnataka has declared that Article 25 (Freedom to free profession, practice and propagation of religion), does not extend to public road and footpath.
- It said that denial of permission to put up temporary structures on roads and footpaths for religious festivals or functions will not infringe upon the freedom granted Article 25.
- It also observed that one cannot get rights to use public roads and streets just because it was for religious purpose.
- It issued guidelines to all city municipal corporations on processing applications for temporarily using public roads and footpaths.

1.6 Creamy Layer for SCs and STs

The Union government has called upon the Supreme Court to form a seven-judge Bench to reconsider its earlier decision to apply 'creamy layer' concept to SCs and STs.

- **Case -** In 2006, SC ordered that the creamy layer of SCs and STs be kept out from enjoying the benefits of quotas on jobs and admissions.
- However, the successive governments have not implemented it.
- Instead, they have repeatedly urged the court to refer the matter to a bench of seven judges for reconsideration.
- **Concept of Creamy Layer -** It was first applied in the Indra Sawhney case, or the Mandal case in 1993, as a facet of the larger equality principle.
- Eight members of a nine-judge bench had then agreed that the creamy layer must be identified and excluded from the backward classes.
- The court had said that this would more appropriately serve the purpose and object of reservation.
- In 2006, in the Nagraj case, the court said the creamy layer concept would be applied to SCs and STs as well.
- The concept involves application of a means test or imposition of an income limit to exclude people whose income is above the limit.
- It also added that socially advanced people must be excluded from reservations.
- It added certain conditions to be met in the form of quantifiable data to show –
  i. the backwardness of a community
  ii. the inadequacy of its representation in service
  iii. the lack of adverse impact on "the overall efficiency of administration"



- The Attorney general had earlier claimed that the creamy lawyer concept was wrongly extended to SCs and STs in 2006 by a five-judge bench.
- It was not envisaged by a larger nine-judge bench that first applied the concept in 2000.
- A Constitution bench headed by the then Chief Justice Dipak Misra rejected the attorney general's plea.

- It was also reiterated that the concept would apply to SCs and STs, too.
- **Contentions –** The condition to show quantifiable data placed a question mark on the continuance of quota policies of various State governments due to non-compliance with these parameters.
- In Jarnail Singh (2018), another Constitution Bench reaffirmed the applicability of creamy layer norms to SC/STs.
- On this ground, it felt that Nagaraj case did not merit reconsideration.
- However, it ruled that Nagaraj verdict was wrong to require a demonstration of backwardness for the Scheduled Castes and Tribes.
- This was because it was directly contrary to the nine-judge Bench judgment in Indra Sawhney (1992).
- It was laid down in this that there was no need for a test of backwardness for SC/STs.
- It's because, they unquestionably fall within the expression 'backward class of citizens'.

1.7 National Register of Citizens (NRC)

- NRC is a register containing names of all genuine Indian citizens. At present, only Assam has such a register.
- It is basically a list of Indian citizens living in the state. The citizens' register sets out to identify foreign nationals in the state that borders Bangladesh.
- NRC for Indian citizens in Assam was first created in 1951.
- The list comprised of those who lived in India on January 26, 1950, or were born in India or had parents who were born in India or had been living in India for at least five years before the January 26, 1950 cut-off.
- The process to update the register began following a Supreme Court order in 2013, with the state's nearly 33 million people having to prove that they were Indian nationals prior to March 24, 1971.
- The updated final NRC was released on August 31, with over 1.9 million applicants failing to make it to the list.
- In Assam, one of the basic criteria was that the names of applicant's family members should either be in the first NRC prepared in 1951 or in the electoral rolls up to March 24, 1971.
- The applicants had other options to present documents such as
    i. Refugee registration certificate,
    ii. birth certificate,
    iii. LIC policy,
    iv. land and tenancy records,
    v. citizenship certificate,
    vi. passport,
    vii. government issued licence or certificate,
    viii. bank/post office accounts,
    ix. permanent residential certificate,
    x. government employment certificate,
    xi. educational certificate and court records.
- Non-inclusion of a person's name in the NRC does not by itself amount to him/her being declared a foreigner. Such individuals will have the option to present their case before foreigners' tribunals.
- If one loses the case in the tribunal, the person can move the high court and, then, the Supreme Court.
- In the case of Assam, the state government has clarified it will not detain any individual until he/she is declared a foreigner by the foreigners' tribunal.
- The exercise may be extended to other states as well.
- Manipur and Tripura were also granted permission to create their own NRCs, but it never materialised.

- Nagaland is already creating a similar database known as the Register of Indigenous Inhabitants.
- The Centre is planning to create a National Population Register (NPR), which will contain demographic and biometric details of citizens.

1.8 AFSPA

- Armed Forces (Special Powers) Bill was passed by Parliament and approved by the President in 1958.
- It was effective in the whole of Nagaland, Assam, Manipur (excluding seven assembly constituencies of Imphal), Meghalaya and parts of Arunachal Pradesh.
- It gives armed forces the power to maintain public order in "disturbed areas".
- It can be invoked in places where the use of armed forces in aid of the civil power is necessary.
- The causes could be differences or disputes between members of different religious, racial, language or regional groups or castes or communities.
- The Central or State/UT administration can declare the whole or part of a State or Union Territory as a disturbed area.
- MoHA would usually enforce this Act where necessary.
- Section (3) of the AFSPA Act empowers the governor of the state or Union territory to issue an official notification on The Gazette of India, following which the centre has the authority to send in armed forces for civilian aid.
- But under Section (3) of the Act, their opinion can still be overruled by the governor or the centre.
- Under this act armed forces can have the authority to prohibit a gathering of five or more persons in an area.
- They can use force or even open fire after giving due warning if they feel a person is in contravention of the law.
- If reasonable suspicion exists, the army can also arrest a person without a warrant.
- They can also enter or search a premise without a warrant, and ban the possession of firearms.
- **Recent Developments -** The Union Cabinet Secretariat has notified regarding AFSPA in J&K and Ladakh.
- According to it, Ministry of Home Affairs (MoHA) will be the authority on deciding the imposition of AFSPA in the Union Territories of Jammu and Kashmir (J&K) and Ladakh.
- MoHA departments will also be responsible for matters including counter terrorism within J&K.
- And coordination with the ministry of defence in regard to manning and managing the Line of Control between India and Pakistan but excluding those with which the ministry of external affairs is concerned.

1.9 Doctrine of Essentiality

- The doctrine of "essentiality" was invented by a seven-judge Bench of the Supreme Court in the 'Shirur Mutt' case in 1954.
- The court held that the term "religion" will cover all rituals and practices "integral" to a religion and took upon itself the responsibility of determining the essential and non-essential practices of a religion.
- Five-judge Constitution Bench judgment in 'Dr M Ismail Faruqui and Ors vs Union Of India and Ors' (October 24, 1994), ruled that "A mosque is not an essential part of the practice of the religion of Islam and namaz (prayer) by Muslims can be offered anywhere, even in open."
- In some cases Supreme Court have relied on religious texts to determine essentiality, in others on the empirical behavior of followers, and in yet others, based on whether the practice existed at the time the religion originated.

1.10 Waqf Properties

- A Waqf property, is an inalienable charitable endowment under Islamic law, which typically involves donating a building, plot of land or other assets for Muslim religious or charitable purposes with no intention of reclaiming the assets
- Union government has launched a Geo tagging and digitalization programme of Waqf properties across the country to ensure these properties can be utilized for welfare of the society.
- For the first time since Independence, Government has decided to provide 100 per cent funding to develop schools, colleges, ITIs, polytechnics, hospitals, multi-purpose community hall "SadbhavMandap" on Waqf land under Pradhanmantri Jan VikasKarykram (PMJVK).

1.11 Article 371

- Article 371 of the Constitution, contains "special provisions" for 11 states, including 6 states of the Northeast.
- Articles 370 and 371 were part of the Constitution at the time of its commencement on January 26, 1950.
- Articles 371A through 371J were incorporated subsequently.
- **Article 371, Maharashtra and Gujarat –**
    - Governor has "special responsibility" to establish "separate development boards" for,
        1. Vidarbha, Marathwada, and the rest of Maharashtra, and
        2. Saurashtra and Kutch in Gujarat.
    - It ensures equitable allocation of funds for developmental expenditure in those areas and
    - Equitable arrangement providing adequate facilities for technical education, vocational training and for employment.

Article 371A (13th Amendment Act, 1962), Nagaland

- This provision was inserted after a 16-point agreement between the Centre and the Naga People's Convention in 1960
- It led to the creation of Nagaland in 1963.
- Parliament cannot legislate in matters of,
    1. Naga religion or social practices,
    2. Naga customary law and procedure,
    3. administration of civil and criminal justice involving decisions according to Naga customary law, and
    4. ownership and transfer of land without concurrence of the state Assembly.

Article 371B (22nd Amendment Act, 1969), Assam

- The President may provide for the constitution and functions of a committee of the Assembly.
- It consists of members elected from the state's tribal areas.

Article 371C (27th Amendment Act, 1971), Manipur

- The President may provide for the constitution of a committee of elected members from the Hill areas in the Assembly and
- It entrusts "special responsibility" to the Governor to ensure its proper functioning.
- Article 371D (32nd Amendment Act, 1973); substituted by The Andhra Pradesh Reorganisation Act, 2014), Andhra Pradesh and Telangana
- President must ensure "equitable opportunities and facilities" in "public employment and education to people from different parts of the state".
- President may require the state government to organise "any classes of posts in a civil service, or any classes of civil posts under, the State into different local cadres for different parts of the State".

Article 371E

- Allows for the establishment of a university in Andhra Pradesh by a law of Parliament.
- But this is not a "special provision" in the sense of the others in this part.

Article 371F (36th Amendment Act, 1975), Sikkim

- The members of the Legislative Assembly of Sikkim shall elect the representative of Sikkim in the House of the People.
- To protect the rights and interests of various sections of the population of Sikkim, Parliament may provide for the number of seats in the Assembly,
- These seats may be filled only by candidates from those sections.

Article 371G (53rd Amendment Act, 1986), Mizoram

- Parliament cannot make laws unless the Assembly decides on,
  1. religious or social practices of the Mizos,
  2. Mizo customary law and procedure,
  3. administration of civil and criminal justice involving decisions according to Mizo customary law,
  4. ownership and transfer of land.

Article 371H (55th Amendment Act, 1986), Arunachal Pradesh

- The Governor has a special responsibility with regard to law and order, and
- The Governor shall, after consulting the Council of Ministers, exercise his individual judgment as to the action to be taken.

Article 371J (98th Amendment Act, 2012), Karnataka

- There is a provision for a separate development board for the Hyderabad-Karnataka region.
- There shall be "equitable allocation of funds for developmental expenditure over the said region", and
- Equitable opportunities and facilities for people of this region in government jobs and education.
- A proportion of seats in educational institutions and state government jobs in Hyderabad-Karnataka can be reserved for individuals from that region.
- Article 371-I deals with Goa, but it does not include any provision that can be deemed 'special'.

2. PARLIAMENT& STATE LEGISLATURE

2.1 Cabinet Committees - Two New Committees

The government recently released the composition of 8 Cabinet Committees, including two new ones.

- Cabinet Committeesare institutional arrangements to reduce the workload of the Cabinet.
- These committees are extra-constitutional in nature and are nowhere mentioned in the Constitution.
- The executive works under the Government of India Transaction of Business Rules, 1961.
- These Rules emerge out of **Article 77(3)** of the Constitution.
- Accordingly, the President shall make rules for the more convenient transaction of the business of the Government of India, and for the allocation among Ministers of the said business.
- The Rules mandate the minister-in-charge of a department (ministry) to dispose of all business allotted to a department under him or her.
- However, on subjects involving more than one department, decision will have to be taken on concurrence.
- On failing such concurrence, decision will have to be taken by or under the authority of the Cabinet.
- **Formation -** The Prime Minister constitutes Standing Committees of the Cabinet and sets out the specific functions assigned to them.

- S/he can add or reduce the number of committees.
- Ad hoc committees of ministers, including Groups of Ministers, may be appointed by the Cabinet or by the Prime Minister for specific matters.
- The strength of each committee varies from 3 to 8 members.
- It usually includes cabinet ministers but non-cabinet members are not debarred.

Key Cabinet Committees

- **Cabinet Committee on Appointments** - This panel makes appointments to posts of three service chiefs, Director General of Military Operations, chiefs of all Air and Army Commands.
- It also makes **appointments to the posts** of -Solicitor-General, Director General of Defence Intelligence Agency, Armed Forces Medical Services, Ordnance Factories, Defence Estates, Scientific Advisor to the Defence Minister, Controller General of Defence Accounts, Director of Institute for Defence Studies and Analyses, Governor of the RBI, Chairman and Members of the Railway Board, Chief Vigilance Officers in Public Sector Undertakings and Secretariat posts of and above the rank of Joint Secretary in the Central Government
- It also decides on all important empanelments and shift of officers serving on Central deputation.
- **Cabinet Committee onAccommodation**- This determines the guidelines or rules with regard to the allotment of government accommodation.
- It also takes a call on the allotment of government accommodation to non-eligible persons and organisations, and decides the rent to be charged from them.
- It can consider the allotment of accommodation from the General Pool to Members of Parliament.
- It can consider proposals for shifting existing Central Government Offices to locations outside the capital.
- **Cabinet Committee on Economic Affairs** - This panel is supposed to review economic trends, problems and prospects.
- The objective is to evolve a consistent and integrated economic policy.
- It also does the following:
    i. coordinates all activities requiring policy decisions at the highest level
    ii. deal with fixation of prices of agricultural produce and prices of essential commodities
    iii. considers proposals for investment of more than Rs 1,000 crore
    iv. deal with industrial licensing policies
    v. review rural development and the Public Distribution System
- **Cabinet Committee on Parliamentary Affairs** - This draws the schedule for Parliament sessions and monitors the progress of government business in Parliament.
- It scrutinises non-government business and decides which official Bills and resolutions are to be presented.
- **Cabinet Committee on Political Affairs** - The committee addresses problems related to Centre-state relations.
- It also examines economic and political issues that require a wider perspective but have no internal or external security implications.
- **Cabinet Committee on Security** - It deals with issues relating to law and order and internal security.
- It also deals with policy matters concerning foreign affairs with internal or external security implications.
- It also goes into economic and political issues related to national security.
- It considers all cases involving capital defence expenditure of more than Rs 1,000 crore.
- It also considers issues related to the -
    i. Department of Defence Production
    ii. the Department of Defence Research and Development

iii. Services Capital Acquisition plans

iv. schemes for procurement of security-related equipment

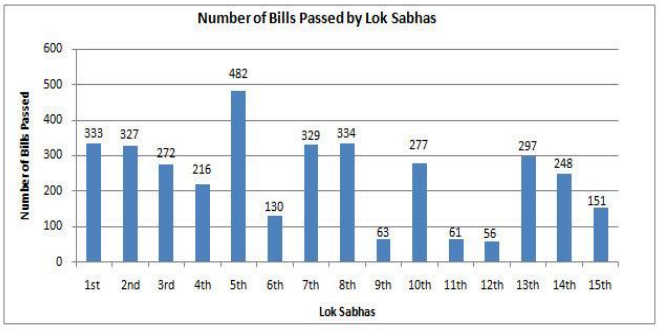
Two new panels

- **Cabinet Committee on Investment** - This Committee will identify key projects required to be implemented on a time-bound basis.
- This applies to projects involving investments of Rs 1,000 crore or more, or any other critical projects, as may be specified by it, with regard to infrastructure and manufacturing.
- It will prescribe time limits for giving requisite approvals and clearances by the ministries concerned in identified sectors.
- It will also monitor the progress of such projects.
- **Cabinet Committee on Employment and Skill Development** - This is supposed to provide direction to all policies, programmes, schemes and initiatives for skill development.
- The objective is increasing the employability of the workforce for effectively meeting the emerging requirements of the economy.
- It facilitates mapping the benefits of demographic dividend.
- The committee is required to enhance workforce participation, foster employment growth and identification.
- It will work towards removal of gaps between requirement and availability of skills in various sectors.
- The panel will set targets for expeditious implementation of all skill development initiatives and to periodically review the progress in this regard.
- The addition of the two committees is indicative of the new focus areas for the government. The goal of both is new jobs.

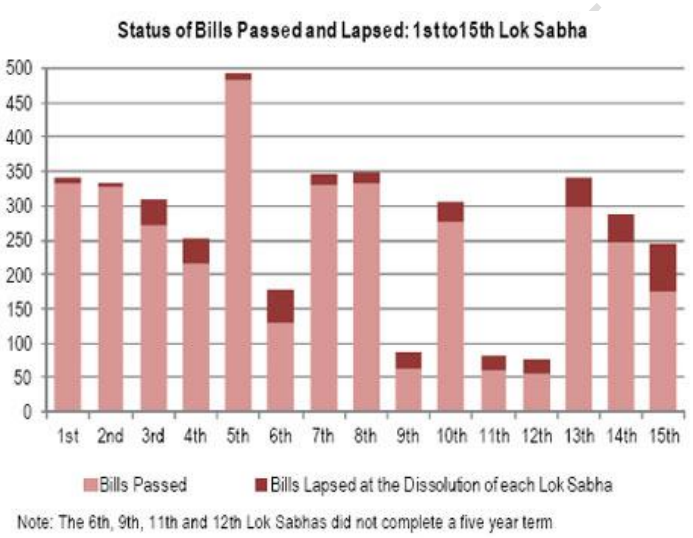
2.2 Lapsing of Bills, waste of Lok Sabha time – Vice President

Vice President suggested to rethink the lapse procedure to avoid wastages of time.

- **Article 107 -** Provison as to introduction and passing of bills.
- According to this article, **Cases when a bill lapses are**,
  1) A bill originated in the Lok Sabha but pending in the Lok Sabha – **lapses**.
  2) A bill originated and passed by the Rajya Sabha but pending in Lok Sabha – **lapses**.
  3) A bill originated and passed by the Lok Sabha but pending in the Rajya Sabha – **lapses**.
  4) A bill originated in the Rajya Sabha and returned to that House by the Lok Sabha with amendments and still pending in the Rajaya Sabha on the date of the dissolution of Lok Sabha- **lapses**.
- **Cases when a bill does not lapse -**
  1) A bill pending in the Rajya Sabha but not passed by the Lok Sabha **does not lapse**.
  2) If the president has notified the holding of a joint sitting before the dissolution of Lok Sabha, **does not lapse**.
  3) A bill passed by both Houses but pending assent of the president **does not lapse**.
  4) A bill passed by both Houses but returned by the president for reconsideration of Rajya Sabha **doesnot lapse**.
- **Status of Legislations in the parliament -** India's first Lok Sabha (1952-1957) passed a total of **333 Bills** in its five year tenure.
- Since then, every Lok Sabha which has completed over three years of its full term has passed an **average of317 Bills**.



- Where a Lok Sabha has lasted for less than 3 years, it has passed an **average of77 Bills.** This includes the 6th, 9th, 11th and 12th Lok Sabhas.
- Both houses spent nearly half their time on transacting legislative business. So lapse of bill affects the productive time spend on legislative business.
- Number of bills lapsed at the end of every Lok Sabha is increasing,
- **22 Bills lapsed** after the dissolution of the **16th Lok Sabha**.
- The lapsed Bills include important bills like
    1) The Land Acquisition Bills passed by Lok Sabha in 2015,
    2) The Motor Vehicles (Amendment) Bill, 2017,
    3) The Banning of Unregulated Deposit schemes Bill, 2019,
    4) The Aadhar and Other Laws (Amendment) Bill, 2019,
    5) Triple Talaq Bills of 2017 and 2018, etc.
- So on lapsing of bills at the end of the term of Lok Sabha leads to wastage of time, as the new Lok Sabha has to take up the bills again.
- It would take a minimum of two sessions to do so there is a need to rethink the provision regarding the lapsing of Bills in the Parliament and also to increase the productivity.



Key things suggested by Vice President

- Following the provisions of Article 107 of the Constitution, 22 Bills passed by the 16th Lok Sabha now stand lapsed.
- The Lok Sabha would now have to take up these 22 Bills again for consideration and passing which is the wastage of time.
- So, the Vice President called for a debate on a Constitutional provision that provides for automatic lapsing of any Bill passed by Lok Sabha.
- He also suggested, a Bill which is not taken up for consideration and passage within five years of introduction should automatically be treated as lapsed.
- Since Rajya Sabha is a permanent House, Bills introduced there do not lapse, and remain pending, sometimes for decades.

2.3 126th Constitution Amendment Bill

Parliament passed the Constitution (126th Amendment) Bill, extending reservation for SC/STs but doing away with the provision for nomination of Anglo Indians to Lok Sabha and some state Assemblies.

- **Origin** - The Anglo-Indian community in India traces its origins to an official policy of the British East India Company to encourage marriages of its officers with local women.
- The term Anglo-Indian first appeared in the Govt. of India Act, 1935.
- **Article 366(2)** - According to this article of the Indian Constitution, an Anglo-Indian means a person whose father or any of whose other male progenitors in the male line is or was of European descent.
- This person is domiciled within the territory of India and is or was born within such territory of parents habitually resident therein and not established there for temporary purposes only.
- **Article 331** of the Constitution provides for nomination of two Anglo-Indians to the House of the people by the President when in his opinion the community is not adequately represented in the House.
- The idea of such nominations is traced to Frank Anthony, who headed the All India Anglo-Indian Association.

- Article 331 was added in the Constitution following his suggestion to Jawaharlal Nehru.
- **Article 333** of the Constitution provides for nomination of one Anglo-Indian to the Legislative Assembly of the State by the President when in his opinion the community is not adequately represented in the House.
- Currently 14 Assemblies have one Anglo-Indian member each: Andhra Pradesh, Bihar, Chhattisgarh, Tamil Nadu, etc.
- The 126th Amendment does away with this as well.
- **10th Schedule** of the Constitution - Anglo-Indian members of the House of the people and State Assemblies can take the membership of any party within six months of their nomination.
- But, once they do so, they are bound by their party whip.
- The Anglo-Indian members enjoy the same powers as others, but they cannot vote in the Presidential election because they are nominated by the President.
- In the current Lok Sabha, the two seats still empty.

2.4 Reservations in Lok Sabha and State Assemblies

- Article 334 of Indian Constitution provides for reservation of seats and special representation of SC/ST's and from Anglo-Indian community (by nomination) in the Lok Sabha and State Legislative Assemblies.
- In the original constitution of 1949, it states that such special representation will cease to have effect after 10 years.
- Parliament through various constitution amendment has extended the time period of reservation for the communities.
- The period of reservation was extended to 1970, 1980, 1990, 2000 and 2010 by the 8th, 23rd 45th, 62nd and 79th Amendments respectively.
- The 95th constitution amendment extended the reservation upto January 26, 2020.
- Thus, the reservation for these categories in the lower House of Parliament and the State Assemblies was to expire on 25th January next year.
- So, Union Cabinet has approved a proposal to extend reservation for SC/ST's in the Lok Sabha and State Assemblies for another 10 years.
- But a question mark prevailed over whether it has extended reservations for two seats in the Lok Sabha for the Anglo-Indian community.
- Article 334, clause b provides for nomination of 2 Anglo-Indian community in the Lok Sabha.
- Presently, there are 84 members from the Scheduled Caste and 47 from the Scheduled Tribe communities in Parliament.

Related Articles

- **Article 341** of the constitution define as to who would be Scheduled Castes with respect to any State or UT.
- **Article 342** of the constitution define as to who would be Scheduled Tribe (ST) with respect to any State or UT.
- The President, in consultation with the Governor of a particular State, may notify the castes, races or tribes be deemed to be Scheduled Castes (A-341) and to be Scheduled Tribes (A-342).
- Article 333 states that the number ofAnglo-Indians nominated by the governor to the State Legislative assemblies should not be more than one.

2.5 Question over Oath-Taking Ceremony

Former CM of Maharashtra, Devendra Fadnavis, alleged that the oath-taking ceremony of the new government under Uddhav Thackeray had violated the Constitution.

- **Issue** – Devendra Fadnavis alleged that, on the first day of the Assembly session, during oath-taking ceremony,CM Uddhav Thackeray and other ministers invockedChattrapati Shivaji, Bal Thackeray, Shivaji and few other leaders.
- They made invocations at the start of the oath, before reading out the text, which Fadnavis alleged had altered the oath itself.
- **Constitutional Provisions -**The mandates are specified in Article 164(3).
- Accordingly, before a Minister enters upon his/her office, the Governor shall administer to him/her the oaths of office and of secrecy.
- This must be according to the forms set out for the purpose in the Third Schedule.
- The Schedule requires the oath-taker either to "swear in the name of God" or "solemnly affirm" to "bear true faith and allegiance to the Constitution…".
- It is widely accepted that Art 164 makes it clear that the text of the oath is sacrosanct.
- So, the person taking the oath has to read it out exactly as it is, in the given format.
- If a person wanders from the text, it is the responsibility of the person administering the oath to interrupt and ask the person being sworn in to read it out correctly.
- In this case, it was the Governor's responsibility.
- **Objections -** Addition of something before or after the oath is not unlawful as long as the substance of the oath is unaltered.
- The Governor's approval is key in this regard.
- According to experts, if the person administering the oath approves the oath, the matter is closed.
- Immediately on taking the oath, the person who has been sworn in, must sign a register.
- The register is attested by the Secretary to the Governor, which means it has been approved by the Governor.
- In Maharashtra, that approval was also formalised by a gazette notification on the appointment of the CM and 6 ministers.
- So, once Governor takes it as read, it has been attested and the gazette notification has come out, then it can no longer be legally challenged.
- **Earlier instances of deviation -** The most famous case of a political leader changing the oath was in 1989.
- Devi Lal inserted the words "Deputy Prime Minister" as he was being sworn in to Prime Minister V P Singh's cabinet.
- He was corrected by President R Venkataraman.
- In 2012, Azam Khan of the Samajwadi Party had to retake his oath in Uttar Pradesh.
- This was because he skipped the oath of office, and only took the oath of secrecy.

2.6 Register of IndigenousInhabitants of Nagaland

The Nagaland government has initiated a move to implement its own version of citizenship register.

- The Government of Nagaland has decided to set up a Register of Indigenous Inhabitants of Nagaland (RIIN).
- This comes 4 years after Assam started revising its National Register of Citizens (NRC).
- The aim is to prevent fake 'indigenous inhabitants' certificates.
- The RIIN will be the master list of all indigenous inhabitants of the state.
- The process will be conducted across Nagaland and will be done as part of the online system of ***Inner Line Permit*** **(ILP)**, which is already in force in Nagaland.
- The entire exercise will be monitored by the Commissioner of Nagaland.
- In addition, the state government will designate nodal officers of the rank of a Secretary to the state government.

- Their role will be to monitor the implementation and will have no say in the adjudication process.
- **Survey** - The RIIN list will be based on "an extensive survey" under the supervision of the district administration.
- It will involve official records of indigenous residents from rural and (urban) wards.
- **Provisional list** - The database will note each family's original residence, current residence as well as the concerned Aadhaar numbers.
- This provisional list will then be published in all villages, wards and on government websites.
- **Review procedure** - Over the next 30 days (from provisional list), claims and objections can be made.
- Respondents will be given an opportunity to make their case before the authorities.
- **RIIN** - Based on the adjudication and verification, a list of indigenous inhabitants will be finalised.
- The final list or the RIIN will be created and its copies will be placed in all villages and ward.
- A mechanism or electronic and SMS-based authentication will be put in place.
- Each person will be given a unique ID.
- All indigenous inhabitants of the state would be issued a bar-coded and numbered Indigenous Inhabitant Certificate.
- **Updation** - Once the RIIN is finalised, no fresh indigenous inhabitant certificates will be issued.
- The only exception is newborn babies of the indigenous inhabitants of Nagaland.
- Those left out of the RIIN will have to file an application before Home Commissioner.

Inner Line Permit (ILP)

- ILP is an official travel document required by Indian citizens residing outside certain
- ILP is an official travel document required by Indian citizens residing outside certain "protected" states while entering them.
- The ILP is issued by the Government of India.
- With the ILP, the government aims to regulate movement to certain areas located near the international border of India.
- ILP's origin dates back to the Bengal Eastern Frontier Regulations, 1873, which protected the British Crown's interest in tea, oil and elephant trade.
- It prohibited "British subjects" or Indians from entering into these protected areas.
- After Independence, in 1950, the word "British subjects" was replaced by Citizens of India.
- Also, the focus of the ban on free movement

- S/he will get the matter verified and take necessary action for updating the RIIN if needed.
- **Challenges** - The negotiators engaged in the ongoing Naga peace talks could now articulate new and hardened positions.
- The talks on the contentious issue of integration of contiguous Naga-inhabited areas (of Assam, Nagaland, Manipur, Arunachal Pradesh) could take pace now.
- NSCN(I-M) - The National Socialist Council of Nagalim (Isak-Muivah) is engaged in peace talks with the government of India since 1997.
- The self-styled government of the People's Republic of Nagalim is the parallel government run by the NSCN(I-M).
- This has opposed the compilation of RIIN, saying that all Nagas, wherever they are, were indigenous in their land by virtue of their common history.
- So it sees the RIIN process as being contradictory to the inherent rights of the Nagas.
- **Cut-off date** - Since 1977, to be eligible to obtain a certificate of indigenous inhabitants of Nagaland, a person has to fulfil either of the below conditions:
    i. the person must be settled permanently in Nagaland prior to December 1, 1963
    ii. his or her parents or legitimate guardians were paying house tax prior to the cut-off date (December 1, 1963)
    iii. the applicant, or his/her parents or legitimate guardians, acquired property and a patta (land certificate) prior to this cut-off date

- The compilation of RIIN involves the complexities of deciding on the claims of the children of non-Naga fathers as well as non-Naga children adopted by Naga parents.
- In this regard, the Nagaland government may choose to go ahead with the above cut-off date.
- In such case, all Naga people who have migrated to the State after this day will have to be excluded.
- These include migrants from the neighbouring Assam, Manipur and Arunachal Pradesh and elsewhere in India.
- The public opinion is still divided on compiling RIIN without a consensus on the cut-off date.

2.7 Payment for Destruction of Property

The UP government has directed district administrations to serve notices on persons allegedly involved in arson and damage of public property during protest, and direct them to pay a penalty.

- **Govt notice** - The Government announced this as a crackdown on protesters against the Citizenship Amendment Act.
- The quantum of the penalty is being determined according to the total cost of the damaged property, according to the FIR lodged by the police.
- **High Court order** - While issuing these notices, the administration has said it derives such powers on the basis of an Allahabad High Court (HC) order of Mohammad Shujauddin vs State of Uttar Pradesh case 2010.
- It has said the police are empowered to take penal action under The Prevention of Damage to Public Property Act, 1984.
- The HC order, due to lacunae in the 1984 Act, has also empowered the civil administration to take action against the accused.
- HC directions - If an agitation has been taken place at the invitation of a **political party** or a sitting or former **people's representative** and there is damage to the public property, a report shall be registered by the police against the political party/person by name.
- A concerned department, local body, public corporation would assess the damage and shall file a claim for realization of such amount before a competent authority.
- The competent authority will be nominated by the government, and claims have to be filed within 7 days after the nomination.
- Any person belonging to the area where the public property is damaged can also approach the competent authority.
- However, when the money is awarded, it has to be furnished only to the concerned department to whom the property belongs.
- There will be an opportunity of hearing against whom the claims is filed; and the competent authority is mandated to pass the appropriate order with a month after the hearing is complete.
- If the **personfound guilty** is unable to pay the entire amount in a single instalment, the district magistrate has to issue a certificate.
- By this certificate, a person is made to pay in arrears under the relevant provisions of the Revenue Recovery Act.
- This competent authority who can say that a person is guilty should be of an official of the rank of Additional District Magistrate and he will be responsible for collecting the amount.
- High Court has issued these directions based on the Supreme Court Judgment in 2009 related to the destruction of public and private properties.
- The SC had issued guidelines on the basis of recommendations made by two committees, headed by former SC Justice K T Thomas and senior advocate Fali Nariman.
- In particular, the Nariman Committee's recommendations had dealt with extracting damages for destruction.
- Accepting the recommendations, the SC had said that the rioters would be made strictly liable for the damage, and compensation would be collected to make good the damage.

J&K REORGANISATION

2.8 Article 370 Scrapped Off

The Indian government scrapped off the Article 370 of Indian Constitution recently.

- The Government of India **ended the Jammu & Kashmir's special status** in the Indian Union.
- It was done by **scrapping off Article 370** of our Constitution.
- This extended all provisions of the Constitution to the State in one go and allowed all citizens to buy property and vote in the State.
- It divided the region into two Union Territories are — **Jammu and Kashmir** with legislature and **Ladakh** without legislature.
- Previously, J&K has been represented by an unelected Governor appointed by the Centre.
- The Parliament has ventured to ratify the conversion of a State into 2 Union Territories without any recommendation from the State.
- In sum, the process to change the constitutional status has been achieved without any legislative input or representative contribution from its people.
- It will not only strain the social fabric in Jammu and Kashmir but also affects the principles of federalism, parliamentary democracy and diversity.
- **Impacts -** The founding fathers recognised that Article 370 was a **transitional or temporary provision**.
- There was a clear subtext in it that says its revocation would only happen once the **consent of the people** of the State was obtained.
- The move will be **legally challenged** on grounds of procedural infirmities and, that it undermines the basic feature of the compact between Delhi and Srinagar that was agreed upon in 1947.
- The challenge would centre around the question whether such step could be achieved in the absence of a representative government.

2.9 Article 370

- Article 370 was the basis of Jammu and Kashmir's accession to the Indian union.
- The original draft Article 306A (now 370) was passed in the Constituent Assembly on May 27, 1949.
- It allows the Indian-administered region jurisdiction to make its own laws in all matters except, finance, defence, foreign affairs and communications.
- It exempts J&K from the Indian Constitution (except Article 1 and Article 370 itself) and permits the state to draft its own Constitution.
- The other provisions of the Indian Constitution can apply to J&K, "subject to such exceptions and modifications as the President may by order specify".
- Such a Presidential order should be with the concurrence of the state government and the endorsement of the J&K Constituent Assembly.
- It enable the state to have a separate flag and denied property rights in the region to the outsiders.
- The residents of the state live under different laws from the rest of the country in matters such as property ownership and citizenship.
- It is the first article of Part XXI of the Constitution. The heading of this part is 'Temporary, Transitional and Special Provisions'.
- So, Article 370 could be interpreted as temporary in the sense that the J&K Constituent Assembly had a right to modify/delete/retain it; it decided to retain it.
- Article 370(3) permits deletion by a Presidential Order.

- Such an order, however, is to be preceded by the concurrence of J&K's Constituent Assembly.
- Since the Constituent Assembly was dissolved on January 26, 1957, it can be done only with the concurrence of the State Assembly.
- By the 1954 order, almost the entire Constitution was extended to J&K including most Constitutional amendments.

2.10 Article 35A

- It stems from Article 370, introduced through a Presidential Order in 1954.
- It is unique in the sense that it does not appear in the main body of the Constitution.
- It forbids outsiders from permanently settling, buying land, holding local government jobs or education scholarships in the region.
- It empowers the J&K legislature to define the state's permanent residents and their special rights and privileges.
- It bars female residents of J&K from property rights in the event that they marry a person from outside the state.

2.11 Corrigendum to the J&K Reorganisation Act

Recently, the Union Ministry of Law and Justice was forced to issue a corrigendum to the Jammu and Kashmir Reorganisation Act.

- The J&K ReorganisationAct gave legal force to the de facto revocation of Article 370.
- It had mandated a special relation between the Centre and the erstwhile state.
- The Act was introduced to divide Jammu and Kashmir into two Union Territories - Jammu and Kashmir, and Ladakh.
- Both of this is to come into existence on October 31 2019.
- The **corrigendum** had to correct as many as 52 errors in the Act, from simple spelling mistakes to incorrectly referenced laws.
- E.g. administrator has been spelt as "Adminstrator" while article became 'artcle', territories - "tterritories", Shariat - "Shariet", SafaiKaramcharis - "Safaikaramcharis"
- Before corrections were notified, the Act even mentioned that there would be delimitation of the parliamentary constituencies of J&K.
- However, the corrigenda said the sentence has been omitted now.
- Some of the other key errors include "State of Jammu and Kashmir" for "Union territory of Jammu and Kashmir", "Institutes Act, 2005" for "Institutions Act, 2004", "1951" for "1909".
- This was not an isolated incident.
- The ministry has had to issue such corrigenda frequently, particularly when it came to Ordinances, such as those amending the corporate income-tax law.
- They appear to have been drafted in haste and without due consultation.
- On other occasions, no official amendments or corrigenda are issued.
- In such cases, the concerned minister gives a verbal assurance to the Parliament that any deficiencies in the wording of the law would be corrected at the time of issuing the relevant rules.

2.12 LG of New UT

- The State of Jammu and Kashmir ceased to exist in line with "The Jammu and Kashmir Reorganisation Act, 2019".

- The two Union Territories – Jammu & Kashmir and Ladakh came into existence following the August 5th decision of Parliament to bifurcate Jammu and Kashmir.
- R K Mathur was sworn-in as the first Lieutenant Governor of UT of Ladakh and administered oath by Chief Justice of Jammu and Kashmir High Court.
- The powers a Governor has in the state they administer is equivalent to that of the President.
- They can appoint Chief Ministers, Ministers, the State Election Commissioner and judges of the District Courts.
- A Lieutenant Governor also has the same powers to ensure checks and balances for the state government and its functioning.
- Union Territories - Andaman and Nicobar, Delhi and Puducherry, Ladakh have Lieutenant Governors.
- In the case of Delhi, since portfolios like land, police and public order fall under the domain of the Centre, Lt. Governor holds more powers than a Governor.

3. JUDICIARY

3.1 Office of the CJI and RTI Act - SC Ruling

The Supreme Court ruled that the office of the Chief Justice of India (CJI) is a public authority under the Right to Information (RTI) Act.

- The Judgement pertained to 3 cases based on the requests for information filed by the RTI activist Subhash Agarwal.
- In one of the three cases, Agarwal had asked whether all SC judges had declared their assets and liabilities to the CJI following a resolution passed in 1997.
- He had not requested for copies of the declarations, but only the status of judges' compliance.
- The 1997 resolution requires judges to declare to the CJI the assets held by them - own name, spouse's name and in any person dependent on them.
- **CPIO** - The CPIO (Central Public Information Officer) of the Supreme Court said the office of the CJI was not a public authority under the RTI Act.
- **CIC** - The matter reached the Chief Information Commissioner (CIC).
- There, a full Bench, headed by then CIC Wajahat Habibullah, in January 2009, directed disclosure of information.
- **Delhi HC** - The Supreme Court approached the Delhi High Court against the CIC order.
- The High Court held that the office of the CJI was a public authority under the RTI Act and was covered by its provisions.
- **Larger Bench** - The Supreme Court then approached a larger Bench.
- The larger Bench held that the earlier judgment of the HC (Justice Ravindra Bhatt) was "both proper and valid and needs no interference".
- **SC plea to SC** - The Supreme Court in 2010 petitioned itself challenging the Delhi High Court order.
- The matter was placed before a Division Bench, which decided that it should be heard by a Constitution Bench.
- As the setting up of the Constitution Bench remained pending, Agarwal filed another RTI application.
- The Supreme Court told him on June 2, 2011 that orders for constituting the Bench "are awaited".
- Finally, in 2018, CJI Ranjan Gogoi constituted the Bench, which has now pronounced its judgement.
- **SC ruling -** A 5 - judge Constitution Bench of the Supreme Court upheld the Delhi High Court ruling of 2010.
- It thus dismissed three appeals filed by the Secretary General and the Central Public Information Officer (CPIO) of the Supreme Court.

- The SC held that the office of the CJI is a public authority.
- However, it held that RTI could not be used as a tool of surveillance.
- It said that judicial independence had to be kept in mind while dealing with transparency.
- The outcome of the ruling is that the office of the **CJI will now entertain RTI applications**.
- It enables the disclosure of information such as the judges' personal assets.
- The Bench unanimously argued that the right to know under the RTI Act was not absolute and this had to be balanced with the right of privacy of judges.
- The key take-away from the judgment is that disclosure of details of serving judges' personal assets was not a violation of their right to privacy.
- The verdict underlines the balance Supreme Court needs between transparency and protecting its independence.

3.2 NRC - Abdul Kuddus Case v Union of India

The Supreme Court recently decided on a batch of 15 petitions, regarding the National Register of Citizens (NRC) in Assam, under the title Abdul Kuddus v Union of India.

- In the State of Assam, there are two ongoing processes concerning the question of citizenship -
    i. Proceedings before the Foreigners Tribunals, which have been established under an executive order of the Central government
    ii. The NRC, a process overseen and driven by the Supreme Court
- Foreigner's Tribunal is a quasi-judicial body meant to decide whether a person is a foreigner or not within the meaning of Foreigners Act, 1946.
- **Petition** - While nominally independent, both processes nonetheless influence one another. This has caused significant chaos and confusion for individuals who have found themselves on the wrong side of one or both.
- The petition was to resolve a "perceived conflict" in the Schedule to the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003.
- The petitioners called for challenging the decision of the Foreigners Tribunal if it is used to justify keeping an individual out of the NRC.
- This would then have to be decided independently of the decision arrived at by the Tribunal.
- In short, the petitioners' case was that the processes of the Foreigners Tribunal and of the NRC should be kept entirely independent of each other.
- Also, primacy should not be given to one over the other.
- **SC Judgement** –It rejected the petitioners' arguments and held that the "opinion" of the Foreigners Tribunal was to be treated as a "quasi-judicial order".
- It was, therefore, final and binding on all parties including upon the preparation of the NRC.
- The Supreme Court's judgement might severely affect the rights of millions of individuals, as there are serious shortfalls with the Foreigners Tribunal's functioning.
- **Concerns with Foreigners' Tribunal** – They are far from the normal understandings of 'courts', both in its form and functioning.
- Under the current rules, Tribunals are -
    i. given sweeping powers to refuse examination of witnesses if in their opinion it is for unworthy/unjustified purposes
    ii. bound to accept evidence produced by the police
    iii. not required to provide reasons for their findings
- As it is not a judgment, a concise statement of the facts and the conclusion would suffice unlike courts that add "reasons" to "facts" and "conclusions".

3.3 Supreme Court on Rohingya issue

The Supreme Courth has decided to examine whether illegal immigrants are entitled to refugee status in the context of the Rohingya Muslims of Myanmar.

- The **Government of India** defines **illegal immigrant** as any foreigner,
    1. Entering India without valid travel documents, or
    2. Overstays a permitted period of stay.
- India is not a signatory to the UN Convention on the Status of Refugees, 1951.
- It has also not signed a Protocol adopted in 1967 on the subject.
- However, since Independence it has by and large adhered to the larger humanitarian principles underlying these instruments.
- India's approach has generally been favourable to vulnerable entrants, but is stridently hostile to the Rohingya.
- The present regime is determined to deport the Rohingya,
    1. In utter disregard of the danger to their lives in Myanmar, and
    2. In violation of the principle of non-refoulement.
- It will be amoral and unjust if this most vulnerable group from Myanmar's Rakhine stateis denied refugee status.
- The government's keenness to deport is rooted in the technicalities of its **citizenship law**.
- It rules out giving citizenship by registration to such illegal immigrants.
- The amendments it proposes to the **CitizenshipAct do not cover Muslim immigrants** and are limited to persecuted Afghan, Bangladeshi and Pakistani minorities.
- The court's decision to go into the issue,offers an opportunity to clarify India's approach to the refugee question.
- It will be strange if any court holds that no illegal immigrant is entitled to refugee status, as it would amount to a denial of the very existence of refugees as a class.
- So, a positive ruling is needed from the apex court to prevent their forcible deportation.
- India should work with the world community on the voluntary repatriation of the Rohingya.

Principle of Non-Refoulement

- Non-refoulement is a fundamental principle of international law.
- It **prohibitsstates from forcibly returning refugees** to conditions that caused them to flee their homes in the first place, where they would be likely in**danger of persecution** based on race, religion, nationality, membership of a particular social group or political opinion.

3.4 Fast Tack Courts in India

The government has proposed to set up 1,023 fast-track courts (FTCs) to clear the cases under the Protection of Children from Sexual Offences (POCSO) Act.

- Fast-track courts (FTCs) are created primarily to deal with the judicial backlog.
- **Evolution -** The Eleventh Finance Commission's report was submitted in 2000, and the recommendations were for 2000 to 2005.
- The FC recommended a grant of around Rs. 500 crore for creation of additional courts specifically for the purpose of disposing of the long-pending cases.
- Though the Eleventh Finance Commission did not use the expression, these 1,734 courts were fast track courts (FTCs).
- **Procedure -** In consultation with High Courts, state governments were supposed to establish FTCs.
- The first one was established in the year 2000.
- **Continuance** - In a case (**Brij Mohan Lal vs Union of India**), the Supreme Court instructed that FTCs should not be disbanded overnight.

- Hence, the Union government approved Rs. 509 crore for the 1,562 functional FTCs to continue till March 31, 2010.
- This deadline was later extended till March 31, 2011.
- The Union of India stated that it would not, in any case, finance expenditure of the FTC Scheme beyond this deadline.
- However, some of the States have resolved to continue the FTC Scheme up to 2012, 2013 and even 2016.
- A few States are even considering the continuation of the FTC Scheme as a permanent feature in their respective States.
- **Complexity** - The decision of some states to continue with FTCs has created an anomaly in the administration of Justice in the States and the entire country.
- This meant that while some States continued the Scheme, others were forced to discontinue or close it because of non-availability of funds.
- **Present Status -** At the end of March, 2019 there were 581 FTCs operational in the country, with approximately 5.9 lakh pending cases.
- Uttar Pradesh has the most number of cases.
- However, 56% of the States and Union Territories, including Karnataka, Madhya Pradesh and Gujarat, had no FTCs.
- In terms of money, Rs. 870 crore was released by the Centre between 2000-2001 and 2010-2011 towards these FTCs.
- **Variations** - With all these years of experience and money spent, there is a decline of FTCs across the country.
- Besides, systemic issues prevail in the States that have the courts.
- There is a huge variation in the kinds of cases handled by these courts across States.
- Certain States primarily allocate rape and sexual offence cases to FTCs and other States allocate various other matters.
- Further, several FTCs lacked technological resources to conduct audio and video recordings of the victims and many of them did not have regular staff.
- **Recent SC order –** In a suo motu petition, SC had issued directions that districts with more than 100 cases pending under the POCSO Act need to **set up special courts** that can deal specifically with these cases.

Fast Track Courts Vs Special Courts

- **Special courts** have existed in the subordinate judiciary since before Independence.
- A special court is one which is to deal with special types of cases under a shortened and simplified procedure.
- They are established under a statute meant to address specific disputes falling within that statute.
- Over 25 special courts were set up between 1950 and 2015 through various Central and State legislations.
- **Fast track courts** on the other hand were the result of recommendations made by the 11th Finance Commission.
- They were actualised though an executive scheme as opposed to a statute of the legislature in case of special courts.
- Moreover these are meant to be set up by the State governments in consultation with the respective high courts.
- **Evaluation of Special Courts -** The Special Courts case clearly uses the phrase “established under statute”, meaning the establishment of a new court.
- However statutes use terms like “constitute”, “create”, “designate”, “notify”, “appoint”, etc leading to ambiguities of its stature.
- There are more special courts under the Prevention of Corruption Act, 1988 than SC/ST (Prevention of Atrocities) Act, 1989.

- However the former is said to have a tenth of the number of registered cases as the latter (2015).
- This points to the unclear legislative intent for creating special courts.

3.5 Increasing the number of SC judges

Four new judges were appointed to the Supreme Court, taking its strength to the 34, the highest-ever.

- **Appointment of SC Judges** -The Chief Justice of India and the Judges of the Supreme Court are appointed by the President under clause (2) of **Article 124** of the Constitution.
- Whenever a vacancy is expected to arise in the office of a Judge of the Supreme Court, the CJI will initiate proposal.
- The recommendation will be forwarded to the Union Minister of Law, Justice and Company Affairs to fill up the vacancy.
- The opinion of the CJI for appointment of a Judge of the Supreme Court should be formed in consultation with a collegium of the four senior-most Judges of the Supreme Court.
- The government can disapprove the appointment of judges at the first instance and return it to collegium for reconsideration.
- When collegium reiterates its recommendation, it is binding on the government.
- The Constitution of India does not have any provision for criteria and procedure for appointing the CJI.
- The convention is to appoint the seniormost judge in the SC becomes the CJI.
- Seniority is not defined by age, but by the number of years an individual has been serving as a judge of the apec court.

3.6 SC Judgement on NGOs and RTI

The Supreme Court gave its judgment in the D.A.V. College Trust and Management Society Vs. Director of Public Instructions case.

- **Judgment –** The Court held that NGOs which were substantially financed by the appropriate government fall within the ambit of 'public authority' under Section 2(h) of the RTI Act, 2005.
- Under the Act, 'public authority' means any authority or body or institution of self-government established or constituted by or under the Constitution.
- In the judgement, 'substantial' means a large portion which can be both, direct or indirect.
- It need not be a major portion or more than 50% as no straitjacket formula can be resorted to in this regard.
- E.g. if land in a city is given free of cost or at a heavily subsidised rate to hospitals/educational institutions/other bodies, it can qualify as substantial financing.

National Parties&RTI

- **ADR** - In 2010, the Association for Democratic Reforms (ADR) filed an application under the RTI to all national parties.
- It sought information about the "10 maximum voluntary contributions" received by them in the past 5 years.
- None of the national political parties volunteered to disclose the information.
- Consequently, ADR and RTI activist Subhash Agarwal filed a petition with the Central Information Commission (CIC).
- **CIC** - In 2013, a full bench of the CIC delivered a historic judgment.
- It declared that all national parties came under 'public authorities' and were within the purview of the RTI Act.
- Accordingly, they were directed to designate central public information officers (CPIOs) and the appellate authorities at their headquarters within 6 weeks.
- Notwithstanding the binding value of the CIC's order, none of the 6 national political parties complied with it.

- All the parties were absent from the hearing when the commission issued show-cause notices for non-compliance.
- **Bill** - In 2013, The Right to Information (Amendment) Bill was introduced in the Parliament; it lapsed after the dissolution of the 15th Lok Sabha.
- The Bill aimed at keeping the political parties explicitly outside the purview of RTI.
- **2019 PIL** - In 2019, a PIL was filed in the Supreme Court seeking a declaration of political parties as 'public authority', and the matter is under judicial consideration.

3.7 Supreme Court Hearing on Land Acquisition Case

A five-judge Constitution Bench of the Supreme Court is hearing a case to clarify the interpretation of the law on land acquisition.

- **Case -** Two three-judge Bench rulings delivered by the apex court in 2014 and 2018 on the same issue differed in their interpretations.
- This has prompted the court to refer the matter to a larger Bench.
- The case is specifically over the provision related to compensation awarded to land owners.
- The issue involves Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.
- The 2013 Act replaced the colonial 1894 land acquisition law.
- Section 24(2) says that in cases where acquisition proceedings were initiated under the 1894 law and compensation had been determined -
    i. the proceedings would lapse if the state did not take possession of the land for 5 years (and)
    ii. had not paid compensation to the landowner
- Once the proceedings lapse under the old law, the acquisition process would be initiated again under the new law.
- This would allow the owner to get a higher compensation.
- The term "paid" in the provision needed interpretation.
- Since it placed the responsibility on the government, cases were filed before the courts soon after the law was implemented.

Two conflicting judgments

- **2014** - In 2014, the first such case involving the interpretation of the new law was the ***Pune Municipal Authority v HarakchandMisirimal Solanki.***
- A three-judge Bench said that the state depositing the compensation in its own treasury cannot be equated with the landowners being "paid".
- In exceptional circumstances, where the landowner refuses the compensation, the sum can be deposited with the court.
- But, a deposit in the state's own treasury would not suffice.
- This ruling was followed as the precedent by High Courts in several cases, and was affirmed by the apex court itself in 2016.

Per Incuriam

- 'Incuria' is Latin for "carelessness", and when a judgment is declared per incuriam, it means that the case was wrongly decided.
- This means that the judges were ill-informed about the applicable law.
- A judgment can also be declared per incuriam if it has materially deviated from earlier precedents.
- A judgment that is per incuriam has no legal force or validity and does not have to be counted as a precedent.

- **2018** - In February 2018, a three-judge Bench ruled in ***Indore Developmental Authority v Shailendra*** on a similar issue.
- It held thatin cases where the landowner had refused compensation, depositing it with the treasury was sufficient.
- So, the state was not obligated to deposit it with the court.

- In doing so, the court also invalidated the 2014 ruling and declared it "per incuriam" (as lacking in regard for the law and facts).
- Thus, inconsistency in these two judgements led to referral to large bench and it stayed all cases relating to the concerned provision of the land acquisition act in High Court across the country.
- It also asked "other Benches of the Supreme Court" to not take up the issue until it was decided by a larger Bench.
- **Judicial Process -** The controversy arises not only as the 2014 ruling was declared per incuriam, but also because it was done so by a Bench of equal strength.
- In the judicial system that is followed in India, a judgment of the court is used as the basis or precedent for determining future cases.
- In the US, all justices of the Supreme Court sit together for hearing every case.
- Unlike this, the Supreme Court in India sits in Benches of two or three.
- So, the practice of following precedent ensures consistency and certainty in law.
- Also, a ruling of the Supreme Court is binding on all High Courts.
- Likewise, a ruling of the Supreme Court by Benches of larger or equal strength is binding on other Benches of the court.
- So, a three-judge Bench cannot hold a decision by another three-judge Bench to be per incuriam.
- Similarly, a Bench cannot ask other Benches to not follow a judgment.
- It can only ask for consideration by a larger Bench if it disagrees with the precedent.
- Larger Bench rulings are preferred to make sure that the law laid down by the court is predictable as far as possible.

3.8 Amendment to Earlier Verdict on SC/ST PoA Act

The Supreme Court recalled its March 20, 2018 verdict, which diluted the original provisions of the SC/ST (Prevention of Atrocities) Act of 1989.

- **2018 verdict -** It provided for granting anticipatory bail to accused persons under the SC/ST (Prevention of Atrocities) Act of 1989.
- It also made mandatory a preliminary enquiry by the police on whether the complaint under the Act is "frivolous or motivated" before registering a case.
- Both these conditions were not part of the original legislation.
- The verdict was based on the view that members of the SC/ST used the 1989 law to lodge false complaints, leading to the arrest of innocent persons.
- The 2018 judgment had triggered widespread protests and violence.
- This compelled the government to amend the Act to negate the effect of the Supreme Court ruling.
- The Centre also filed a review against the judgment.
- In its judgment on the government's review petition, a three-judge Bench of the Supreme Court condemned its own earlier judgment.
- **Recent decision** – The court has reasoned that human failing and not caste was the reason behind the lodging of false criminal complaints.
- Untouchability though intended to be abolished, has not vanished in the last 70 years and the condition is still worse in the villages and remote areas.
- **Significance -** The apex court's decision recalling the earlier verdict may not appear very significant.
- However, the order by the three-judge Bench on the Centre's review petition is more than a mere academic exercise.

- By this, the court rules out the assumption that SC/ST members are more likely to give false complaints than the general population.
- The review is also a timely reminder or a caution for judiciary against entering the legislative domain.

3.9 SC on Delay in Judges Appointments

SC recently said that 213 names recommended for appointment to various High Courts are pending with the government.

- **Procedure -** The Memorandum of Procedure states that appointments should be initiated at least 6 months before a vacancy arises.
- Also, 6 weeks of time is then specified for the State to send the recommendation to the Union Law Minister.
- After this, the brief is to be sent to the SC collegium in 4 weeks.
- Once the collegium clears the names, the Law Ministry has to put up the recommendation to the Prime Minister in 3 weeks.
- The PM will in turn advise the President.
- Thereafter no time limit is prescribed and the process, seemingly, comes to a standstill.
- Thus, Prior to the names reaching the PM and President for final approval, there are time periods specified.
- This is the case at each level of the appointment process of judges to the higher judiciary.
- The court has fixed a time period of 6 months to appoint as judges at least those whose names the SC collegium, the HCs and the Government have agreed upon.
- **Reason –** SC decided to strike down the government's move to set up a National Judicial Appointments Commission as unconstitutional in 2015.
- [The NJAC would have been responsible for appointments and transfers to the higher judiciary in place of the Supreme Court collegium.]
- Since then, reports of delays in appointments have become increasingly commonplace.
- The Supreme Court recently condemned the government for not acting on another set of nominations on which the government had sent back objections.
- The court said that if the collegium reiterates the names, the government has no option but to appoint the judges.
- In this backdrop, the equation between the court and the Union Government has been strained.
- Vacancies in the higher judiciary threaten every aspect of the justice delivery system.
- However, it is mostly the courts that take the blame for any shortfall in justice.
- Given all these, the Supreme Court's recommendation now of a time limit to the appointments is welcome.

3.10 SC on appointment in Tribunals

The Supreme Court has recently struck down a set of rules framed in 2017 regarding hiring of members and chairpersons for tribunals, and asked the central government to make fresh rules.

- The court was hearing a dispute that alleged that the Finance Act, 2017, was passed as a money bill though it contained provisions like the appointment of judges.
- Thought it struck down the rules, it upheld a section that allowed the central government to make rules regarding qualifications, appointment, terms of office, salaries and allowance, resignation, removal and other terms and conditions of service of the chairperson and other members of tribunals.
- It asked the central government to draft a fresh set of rules and report back within six months.
- Fresh rules have to be formulated in consonance with the guidelines of the 2010 judgement in the R. Gandhi versus Union of India case.

- The ministry of law and justice was also directed by the top court to undertake a judicial impact assessment of tribunals.
- It referred the broader question of whether the Finance Act 2017 was passed as a money bill to a larger bench to decide.

3.11 U.K. Verdict on Nizam's Fund

- U.K. court has recently given verdict over 71 years old case involving India, Pakistan.
- The case dates to days during Operation Polo in 1948.
- During the operation, India deployed armed forces in Princely State of Hyderabad to concede it into India.
- Osmal Ali Khan, Nizam of Hyderabad sought weapons from Pakistan and transferred the money (now worth £35 million) to the account of High Commissioner of Pakistan in London.
- However, Hyderabad's armed forces had already surrendered during the military operation.
- Within days of surrender, the Nizam, sent a message to the National Westminster Bank demanding that the money be transferred back to his account.
- Pakistan also claimed the money as a gift or as payment for a shipment of arms.
- In 1965, the Nizam assigned to the President of India, his claim to the fund, and joined forces with India to fight for his claim on the money.
- After many twists and turns, the U.K. court has rejected Pakistan's claim and ruled in favour of India and the Nizam's descendants based in Turkey and the U.K.
- It granted them access to a £35 million fund.

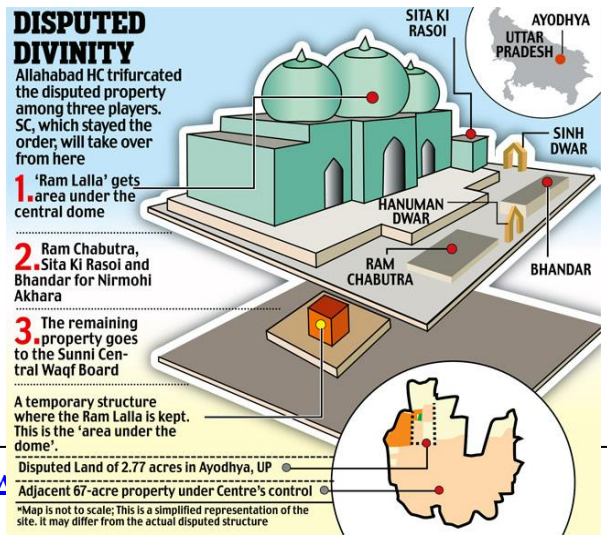
3.12 Acting Chief Justice

- The Supreme Court has recently ruled that a judge who retired as an Acting Chief Justice of a High Court cannot claim the pension of a regular Chief Justice (CJ).
- SC held that an Acting CJ needs to be given the pension of a CJ only for the period for which he served as a CJ and not more.
- Only for the limited purpose of salary, such an Acting Chief Justice is treated on a par with the Chief Justice and not for any other purpose, more particularly pension.
- K.Sreedhar Rao, served in Gauhati High Court for 14 months as its Acting CJ.
- He appealed to SC demanding pension equivalent to CJ of a high court.
- But SC said he needs to be given a Chief Justice's pension only for the 14 months he was Acting CJ.

3.13 Judgement on Ayodhya Dispute

The Supreme Court (SC) delivered the verdict in the politically-sensitive Ram Janmabhoomi-Babri Masjid land dispute case.

- **Dispute -** The Hindus had maintained that the mosque was built atop a temple that Mughal emperor Babar's men had demolished.
- They claimed the site was the birthplace of Ram, the most worshipped deity of the Hindus.
- The three main litigants in the case are the Nirmohi Akhara sect, the Sunni Wakf Board and the RamlallaVirajman.
- The Nirmohi Akhara is a religious denomination that had sought directions to construct a Ram temple on the disputed land in Ayodhya.



- It wanted the management rights of the premises to be given to it.
- Ram Lalla (or the infant Ram) is represented by the Hindu Mahasabha.
- It wanted the entire land to be handed over to them, with no part going to Muslim parties or the Nirmohi Akhara.
- The Sunni Wakf Board is that which looks after religious properties.
- It had demanded that the Babri Masjid be restored to the form that existed before it was demolished by the Hindu groups.
- [The 16th century Babri Masjid was demolished by a Hindu mob on December 6, 1992.]
- Fourteen appeals had been filed before the Supreme Court against a 2010 Allahabad high court judgment.
- The HC had said that the disputed 2.77 acres should be equally divided among the three litigants.
- **SC observation -** SC says it will be inappropriate for it to play the role of theologian and interpret Hadees.
- [Hadees/Hadith is a record of the traditions or sayings of the Prophet Muhammad.
- It is revered and received as a major source of religious law and moral guidance, second only to the authority of the Quran]
- SC holds that Nirmohi Akhara is not the shebait [Shebait is that person who serves the deity, consecrated in the temple as a Devata]
- SC also says Ramjanmabhoomi is not a juristic person.
- SC says that the Archaeological Survey of India (ASI) report leads to conclusion that Babri mosque was not constructed on vacant land.
- [There was underlying structure and it was not Islamic in nature. Artefacts recovered have a distinct non-Islamic nature.]
- With this, Supreme Court upholds the view that there was a 12th-century structure.
- The SC observed that faith was a matter of individual believer.
- It thus held that the faith of the Hindus in Lord Ram could not be disputed.
- However, a judgement cannot be decided on faith and beliefs, and it is decided on evidence.
- In this case, no evidence has come on record to rule out the belief of Hindus in the place.
- SC notes that there were places of birth identified in close proximity to the disputed land.
- The existence of Sita Rasoi, Ram Chabutra and BhandarGrih are the testimony of the religious fact of the place.
- Extensive nature of Hindus worshipping at outer courtyard at site has also been there.
- Balance of probabilities show Hindus continued to worship uninterrupted in outer courtyard despite putting up brick wall at site.
- Nevertheless, SC accepts the HC view that Hindu idols were placed inside the central dome of Babri Masjid on Dec 22-23, 1949 night.
- **Ruling -** SC gave a unanimous judgment on the Ayodhya dispute.
- It granted the entire 2.77 acre of disputed land in Ayodhya to deity Ram Lalla.
- The Centre will have to frame scheme under which it will constitute a trust within 3 months and hand over inner and outer court to trust.
- Nirmohi Akhara should be granted representation in trust to be constituted by Government.
- Muslims were unable to prove that they were in exclusive possession of inner courtyard.
- SC says there should be alternate land given to Muslims to make good their loss of a mosque.
- Sunni Wakf Board is to be granted 5 acres land in “suitable, prominent place in Ayodhya”.

4. CONSTITUTIONAL & NON-CONSTITUTIONAL BODIES

4.1 Inter-State Council

The Inter-State Council has been reconstituted with Prime Minister as its chairman and six Union ministers and all chief ministers as members.

- In 1988, Union government constituted a commission under the chairmanship of justice R.S.Sarkaria to review the working of the existing arrangements between the Union and the States.
- Based on the recommendation of the commission, the Inter-State Council was set up under Article 263 of the Constitution of India vide Presidential Order dated 28.5.1990.
- The present composition of the council are,
    i. Prime Minister - Chairman
    ii. Chief Ministers of all States and UTs having legislative assemblies
    iii. Administrators of the UT not having a legislative assembly
    iv. 6 Ministers of Cabinet rank in the Union Council of Ministers to be nominated by the Prime Minister Members
    v. Four Ministers of Cabinet rank as Permanent invitees Members
- Inter-State Council is a recommendatory body with duties to investigate and discuss the subjects of common interest between the Union and State(s) or among the States
- It also deliberates upon such other matters of general interest to the States as may be referred by the Chairman to the Council.
- A Standing Committee of the Inter-State Council has been constituted for continuous consultation and processing of matters for the consideration of the Council.
- The Standing Committee comprises of Union Home Minister as Chairman and 5 Union Ministers of Cabinet Rank and 9 Chief Ministers of States as Members nominated by the Chairman of the Inter-State Council.

4.2 Eastern Zonal Council

- The 11th meeting of the Standing Committee of the Eastern Zonal Council was held at Patna.
- The five Zonal Councils (Northern, Eastern, Northern, Southern and Central Zonal Councils) were set up under the State's Reorganization Act, 1956.
- The present composition of zonal councils is,
    i. The Northern Zonal Council - Haryana, Himachal Pradesh, Jammu & Kashmir, Punjab, Rajasthan, National Capital Territory of Delhi and Chandigarh;
    ii. Central Zonal Council- Chhattisgarh, Uttarakhand, Uttar Pradesh and Madhya Pradesh;
    iii. Eastern Zonal Council- Bihar, Jharkhand, Orissa, Sikkim and West Bengal;
    iv. Western Zonal Council - Goa, Gujarat, Maharashtra and UT of Daman & Diu and Dadra & Nagar Haveli;
    v. Southern Zonal Council - Andhra Pradesh, Karnataka, Kerala, Tamil Nadu and the UT of Puducherry.
- The 7 North Eastern States and Sikkim are looked after by the North Eastern Council, set up under the North Eastern Council Act, 1972.
- Union Home Minister is the Chairman of these councils.
- The Chief Ministers of the States included in each zone act as Vice-Chairman of the Zonal Council by rotation, each holding office for a period of one year at a time.
- Members- Chief Minister and two other Ministers as nominated by the Governor from each of the States and two members from Union Territories included in the zone.
- It is to foster Inter-State co-operation and co-ordination among the States.

- The Zonal Councils are mandated to discuss and make recommendations on any matter of common interest in the field of economic and social planning, border disputes, linguistic minorities or inter-State transport etc.

4.3 Controller General of Accounts

- Recently Mr. Girraj Prasad Gupta took over as the CGA.
- CGA works under Department of Expenditure, 'Ministry of Finance'.
- The office of CGA is the apex Accounting Authority.
- It is the principal advisor on Accounting matters to the Union Government.
- It is **not a constitutional body**, but it derives its mandate and exercises the powers of the President from Article 150 of the constitution.
- **Article 150** states that, the accounts of the Union and of the States shall be kept in such form as the President may, on the advice of the Comptroller and Auditor-General of Inida.
- It is responsible for establishing and maintaining a technically sound Management Accounting System.
- Other functions are,
    1. It formulates policies relating to general principles, form and procedure of accounting for the government.
    2. It administer the process of payments, receipts and accounting in Central Ministries.
    3. Prepares, consolidates and submits the monthly and annual accounts of the Central Government.
    4. It is responsible for maintaining the requisite technical standards of Accounting.
    5. It administers banking arrangements of Government expenditures and collection of government receipts.
    6. It is responsible for coordination and monitoring the progress of submission of corrective action taken on the recommendations contained in Public Accounts Committee's (PAC) and the CAG reports.
- It brings out an annual booklet titled "Accounts at a Glance" that brings out broad features of Government Receipts and Expenditure.
- CGA does the Cadre management of Group 'A' (Indian Civil Accounts Service) and Group 'B' Officers of the Central Civil Accounts Offices.

5. ELECTIONS

5.1 EC's Order on Reducing Sikkim CM's Disqualification Period

The Election Commission has reduced the period of disqualification from electoral contest of Sikkim CM Prem Singh Tamang to one-year-and-a-month.

- **Charge** - Mr. Tamang was convicted under the Prevention of Corruption Act and sentenced to one-year prison.
- He went to jail and was released in August 2018.
- He was (controversially) appointed as the Chief Minister by the Sikkim Governor earlier in 2019.
- Mr. Tamang did not contest, but was elected legislature party leader by the Sikkim KrantikariMorcha (SKM), which won the election.
- This was in deep disregard of the Supreme Court's 2001 ruling in the case of late Tamil Nadu CM Jayalalithaa in which her appointment as the CM was nullified due to her conviction in a case in 2000.
- Under an amendment in Prevention of Corruption Act, 2003, any conviction under the anti-corruption law would attract the six-year disqualification.
- Tamang's appointment as Chief Minister was challenged in the Supreme Court and he approached the Election Commission for removing his disqualification.
- Tamang argued that the law prevailing at the time of his offence entailed disqualification from contesting elections only if the sentence was for a term of 2 years or more.

- So, the amendment in 2003 should not be applied to him.
- **EC's decision -** Under Section 11 of the Representation of the People Act, 1951, the EC has the power to remove or reduce the disqualification attached to a conviction.
- With the EC's current order, Mr. Tamang is eligible to contest a byelection and retain his post.
- The EC's decision goes against a series of recent legislative and judicial measures to strengthen the legal framework against corruption.

5.2 SC Judgement on Karnataka MLAs Disqualification

The Supreme Court delivered its judgement in regards with the disqualification of 17 MLAs of the Congress and Janata Dal-Secular (JD-S) in Karnataka.

- **Issue** - The 2018 Karnataka State elections produced a hung Assembly - the BJP won 104 seats, Congress 80, and JD-S 37, others 3 in the 224-member House.
- The BJP failed to gather a majority after 3 days of Yediyurappa being Chief Minister.
- The Congress and JD-S leaders forged an alliance soon after the results.They formed the government with H D Kumaraswamy of the JD-S as CM.
- In July 2019, 14 MLAs from the Congress and 3 from the JD-S quit the Assembly.It was apparently because they were unhappy with the coalition government.
- The resignations were seen as linked to a BJP attempt to topple the government.
- The Congress and JD-S thus sought the MLAs' disqualification, and a bar on their contesting elections.
- As the 17 rebels stayed away from the Assembly, the Congress-JD-S government collapsed during a trust vote on July 23.
- This paved the way for the BJP to stake claim to form a new government under Yediyurappa on July 26.
- In the interim, the 17 MLAs were disqualified from the 16th Karnataka Legislative Assembly by the then Speaker K.R. Ramesh Kumar on July 25 and 28 2019 under the anti-defection law.
- They were barred from contesting elections during the entire tenure of the current Assembly (which is until 2023).
- The MLAs subsequently moved the Supreme Court asking that the Speaker's orders be quashed.
- The Congress and JD-S too approached the court, seeking enforcement of the disqualifications.
- **SC Ruling -** The Court upheld the disqualification of 17 dissident Congress and Janata Dal (Secular) MLAs by Karnataka Assembly Speaker under the Tenth Schedule (anti-defection law).
- It however held that their ouster is no bar from contesting repolls.
- **Contesting Polls** - Neither under the Constitution nor under the statutory scheme would disqualification under Tenth Schedule operate as a bar for contesting re-elections.
- The court said Section 36 of the Representation of the People Act, 1951 does not contemplate such disqualification.
- **Disqualification** - In the light of the existing constitutional mandate, the Speaker is not empowered to disqualify any member till the end of the term.
- However, a member disqualified under the 10th Schedule shall be subjected to sanctions provided under Articles 75(1B), 164(1B) and 361B of Constitution.
- These provide for a bar from being appointed as a Minister or from holding any remunerative political post.
- This applies from the date of disqualification till the date on which the term of his/her office would expire or if he/she is re-elected to the legislature, whichever is earlier.
- **Right to resign** - The court upheld the MLAs' submission that they had a right to resign.
- A member may choose to resign for a variety of reasons and the reasons may be good or bad but it is his/her sole prerogative to resign.

- An elected member cannot be compelled to continue his/her office if he/she chooses to resign.
- The Court held that the Speaker's enquiry on a resignation should be confined to whether it was a voluntary and genuine act.
- The Speaker had the discretion to reject a resignation but the decision should be based on "objective material" and not just ipse dixit (an assertion).
- **Procedure** - The MLAs contented that the Speaker did not give them reasonable time to defend themselves before disqualifying them.
- To this, the Court said that this would depend on the "unique facts and circumstances" of each case.
- However, the Speaker could not cut short the hearing period.
- The Speaker should give sufficient opportunity to a member before deciding a disqualification proceeding.
- They should ordinarily follow the time limit prescribed in the Rules of the Legislature.
- The court said, "The Speaker, being a constitutional functionary, is generally presumed to have adjudicated with the highest traditions of constitutionalism."
- It was for this very reason that the Constitution has limited the powers of the court to judicially review the Speaker's order under the 10th Schedule.
- The Court held that an order of the Speaker under the 10th Schedule could be subject to judicial review only on four grounds -
    1. mala fide
    2. perversity
    3. violation of the constitutional mandate
    4. order passed in violation of natural justice
- The court rejected the MLAs' contention that their disqualification was invalid as they had tendered their resignations.
- But, it said the act that led to their disqualification preceded their offer of resignation.
- Identifying its weak aspects and strengthening the law may be the solution.

5.3 Office of Profit

- President has rejected a petition demanding disqualification of 11 Delhi MLAs belonging to AamAadmi Party for allegedly holding office of profit.
- In March 2017, a petition was filed before the President seeking disqualification of the lawmakers claiming that they were enjoying office of profit by being co-chairpersons of district disaster management authorities in 11 districts of Delhi.
- The issue was referred to Election Commission which gave an opinion that holding the office of co-chairperson of a district disaster management authority does not attract disqualification as MLA since there is no remuneration by way of salary and allowances.
- As per law, the President accepts the opinion of the Election Commission in cases of office of profit.
- 'Office of profit' (OoP) is not clearly defined in the Constitution.
- But deriving from the past judicial pronouncements, five tests have been laid down to check if an office is an OoP or not.
- They are:
    i. whether the government makes the appointment

ii. whether the government has the right to remove or dismiss the holder
iii. whether the government pays remuneration
iv. what the functions of the holder are
v. does the government exercise any control over the performance of these functions

- In all, the word 'profit' has always been treated equivalent to or a substitute for the term 'pecuniary gain' (financial gain).

5.4 Elections in Local Self-Government

- The Tamil Nadu Cabinet has recently decided to revert to Indirect Elections to the posts of Mayors of Corporations and chairpersons of municipalities and town panchayats.
- 74th Constitutional Amendment Act created 3 offices in Urban Local Bodies Viz
    1. Town Panchayat for a transitional area between a rural and urban area
    2. Municipalities for a small urban area
    3. Municipal Corporations for a large urban area
- The members to these offices are elected directly by the people.
- The state legislature may provide for the manner of election of the chairpersons of these three offices.
- It is also having powers to provide representation of the members – MLAs/MPs, persons having special knowledge in Municipal administration, Chairperson of the committees.
- The State Election Commission is vested with the power to conduct elections to these offices.

5.5 Electronically Transmitted Postal Ballot System (ETPBS)

- It is a flagship IT programme of Election Commission of India.
- It is developed with the help of Centre for Development of Advanced Computing (C-DAC), for the use of the Service Voters.
- It enables the entitled service voters to cast their vote using an electronically received postal ballot from anywhere outside their constituency.
- The voters who make such a choice will be entitled for Postal Ballot delivered through Electronic Media for a particular election.
- It enables the voters to cast their vote on an electronically received postal ballot from their preferred location, which is outside their originally assigned voting constituency.
- Class of electors eligible for ETPBS –
    i. Service Voters, other than those who opt for proxy voting (Classified Service Voters)
    ii. The wife of a Service Voter who ordinarily resides with him
    iii. Overseas Voters
- **Features -** It is a fully secured system, having two layers of security.
- Secrecy is maintained through the use of OTP and PIN and no duplication of casted Electronically Transmitted Postal Ballot (ETPB) is possible due to the unique QR Code.

5.6 Political Parties Registration Tracking Management System

- It was launched by the Election Commission of India.
- It was implemented through an online portal to facilitate tracking of status of application by applicants.
- **Salient feature** - The applicant (who is applying for party registration from 1st January, 2020 onwards) will be able to track the progress of his / her application and will get status update through SMS and email.

- The Registration of Political Parties is governed by the provisions of section 29A of the Representation of the People Act, 1951.
- A party seeking registration under the section 29 of RPA has to submit an application to the Commission within a period of 30 days following the date of its formation in prescribed format to ECI.
- The candidates set up by a political party registered with the Election Commission of India will get preference in the matter of allotment of free symbols vis-à-vis purely independent candidates
- Recognised `State' and `National' parties need only one proposer for filing the nomination and are also entitled for two sets of electoral rolls free of cost and broadcast/telecast facilities over Akashvani/Doordarshan during general elections.

INTERNATIONAL RELATIONS

6. INDIA & ITS NEIGHBORHOOD

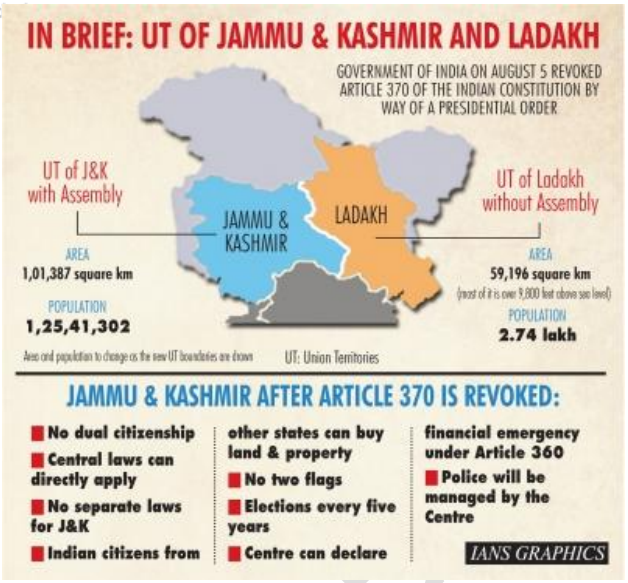
6.1 Art 370 and Line of Control

Article 370 of the Indian Constitution was recently scrapped.

- Legally, the LoC is a ceasefire line between India and Pakistan, and is not an international boundary.
- Under international law, it is defined and protected by a bilateral treaty, the 1972 Simla Agreement.
- The Agreement was executed in writing between India and Pakistan following the 1971 war.
- It was subsequently ratified by both parliaments.
- As with any bilateral treaty, the status or definition of the LoC can be legally altered only with the agreement of both India and Pakistan.

- The constitutional changes to Article 370 do not automatically make an impact on the status of the LoC.
- On a question over the impact of this constitutional change on the Pakistani side territory, the Indian home minister reiterated India's claim to the whole of Kashmir.
- However, a diplomatic response from the Ministry of External Affairs clarified that the changes do not affect either the LoC or the Line of Actual Control (the disputed border with China running through Ladakh).
- Given these, many see the LoC as merely continuing with an indefinite and harmful status quo, thus preventing a substantive resolution of the conflict.
- A domestic law of one country simply cannot amend a bilateral treaty without the consent of the other party.
- E.g. Previous amendments and additions to Article 370, too, have not changed the LoC.
- Also, in 2018, Pakistan introduced the Gilgit Baltistan Order 2018 to begin the integration of Gilgit Baltistan into the federal structure of Pakistan.
- It was a step towards making it the country's fifth province, akin to Punjab or Sindh.
- While India and Kashmiris on both sides of the LoC opposed the move, there was no suggestion that the LoC should be sacrificed.
- Given these, the unilateral constitutional changes, as with scrapping Art 370, fundamentally violate the letter and spirit of the Simla Agreement.

- Notably, Article 4 (2) of the Simla Agreement states as below:
    1. Neither side shall seek to alter it (the LoC) unilaterally, irrespective of mutual differences and legal interpretations
    2. Both sides further undertake to refrain from the threat or the use of force in violation of this Line
- This would clearly justify internationalising the conflict over Art 370, violating the ceasefire and in the extreme, direct military action.
- Indeed, Pakistan briefly threatened to reconsider its adherence to bilateral treaties, including the Simla Agreement, in response to India's latest move.



6.2 Blacklisting Pakistan under FATF

Financial Action Task Force (FATF) is to hold its Plenary and Working Group meeting in Orlando, Florida.

- Pakistan has been under the FATF's scanner since June, 2018.
- It was put under the greylist for terror financing and money laundering risks.
- This was done after an assessment of its financial system and law enforcement mechanisms.
- FATF and its partners such as the Asia Pacific Group (APG) review Pakistan's processes, systems, and weaknesses.
- This is done on the basis of a standard matrix for anti-money laundering (AML) and combating the financing of terrorism (CFT) regime.
- In June 2018, Pakistan gave a high-level political commitment to work with the FATF and APG.
- It promised to strengthen its AML/CFT regime, and to address its strategic counter-terrorism financing-related deficiencies.
- Based on this commitment, Pakistan and the FATF agreed on the monitoring of 27 indicators under a 10-point action plan, with deadlines.
- Successful implementation of the action plan and its physical verification by the APG will lead the FATF to move Pakistan out of the greylist.
- But failure in implementation and in meeting the deadlines would result in Pakistan's blacklisting by September 2019.
- India is a voting member of the FATF and APG, and co-chair of the Joint Group.
- [India is represented by the Director General of India's Financial Intelligence Unit (FIU) in the Joint Group.]
- Pakistan had asked for India's removal from the group, citing bias and motivated action, but that demand has been rejected.
- But India was not part of the group that moved the resolution to greylist Pakistan in 2018 in Paris.
- The movers were the US, UK, France, and Germany; China did not oppose it.

Financial Action Task Force

- The Financial Action Task Force (FATF) was set up in 1989 by the western G7 countries, with headquarters in Paris.
- It acts as an 'international watchdog' on issues of money-laundering and financing of terrorism.
- FATF has 37 members that include all 5 permanent members of the Security Council, and other countries with economic influence.
- Two regional organisations, the Gulf Cooperation Council (GCC) and the European Commission (EC) are also its members.
- Saudi Arabia and Israel are "observer countries" (partial membership).
- India became a full member in 2010.

6.3 Inauguration of Kartarpur Corridor

Indian PM flagged off the first batch of over 500 pilgrims to the Kartarpur Sahib Gurudwara in Pakistan through the newly built corridor linking two important Sikh shrines.

- Political and military tensions are running high since the Pulwama terror attack in February 2019.
- India's bombing of the Balakot terror training camp in response to this and the skirmish between the two air forces that followed worsened the situation.
- India's decision to change the constitutional status of Jammu and Kashmir and Pakistan's reaction to it was another irritant.
- With these, there is no formal dialogue between the two countries for quite some time now.
- There is not even any speculation about a back-channel dialogue that is sustaining a minimum level of communication between the two leaderships.
- The corridor is a remarkable exception to the current dynamic between India and Pakistan.
- It will allow 5,000 Indian pilgrims a day to walk visa-free into Pakistan, pay obeisance and then return to India.
- Despite many critical voices on either side and some difficult negotiations between Delhi and Islamabad, the corridor is now open.
- The corridor could be a harbinger of improved relations between Delhi and Islamabad.

6.4 Feni River MoU - India and Bangladesh

The Union Cabinet has approved a Memorandum of Understanding (MoU) between India and Bangladesh.

- The MoU was on the withdrawal of 1.82 cusecs of water from the Feni river by India for a drinking water supply scheme for Sabroom town in Tripura.
- The Feni river forms part of the India-Bangladesh border.
- It originates in the South Tripura district.
- The river passes through Sabroom town on the Indian side, and meets the Bay of Bengal after it flows into Bangladesh.
- According to the Indian government, there has been no water-sharing agreement between the countries on the Feni previously.
- The dispute over the sharing of the river water has been long-standing.

- It was taken up between India and Pakistan (before the independence of Bangladesh) in 1958 during a Secretary-level meeting in New Delhi.
- According to the Bangladeshi reports, water has long been drawn from the Feni river through small pumps on the Indian side.
- In August 2019, India and Bangladesh held a water secretary-level meeting of the Joint Rivers Commission (JRC) in Dhaka.
- There, it was agreed to collect data and prepare water-sharing agreements for seven rivers.
- These are Manu, Muhuri, Khowai, Gumti, Dharla, Dudhkumar, and Feni.
- In this regard, an MoU was signed between the two countries during Bangladesh PM Sheikh Hasina's visit to India.
- The Cabinet approval now on this is ex-post facto, or having retrospective effect.
- The present supply of drinking water to Sabroom town on the southern tip of Tripura is inadequate.
- The groundwater in this region has high iron content.
- Given this, the MoU terms would benefit Sabroom town.

- Implementation of the water supply scheme would benefit a population of over 7000 there.
- **Other projects on theFeni** - In Tripura, a 150-metre long, 4-lane bridge across the Feni is being built between India and Bangladesh.
- It is expected to be completed by March 2020 at an estimated expenditure of Rs 73 crore.
- Once ready, it would connect Tripura with Chittagong port in Bangladesh, which is only 70 km away from the Indo-Bangla border.
- It would also play an important role in the proposed economic corridor through India, Bangladesh, China and Myanmar.
- Sabroom is expected to transform into the largest transit hub in the Northeast after the bridge is ready.

6.5 High Court Order on Sri Lankan Refugees

A recent order of the Madurai Bench of the Madras High Court directed 65 refugees from Sri Lanka to apply for Indian citizenship.

- The case before the Madurai Bench of the Madras High Court concerned 65 "stateless persons."
- They arrived in Tamil Nadu in 1983-85 period following the anti-Tamil *pogrom* (organized massacre of a particular ethnic group) of July 1983 in Sri Lanka.
- They were mostly put up at a refugee camp in Tiruchi.
- Their ancestors were indentured labourers who were taken to Sri Lanka during the British Raj to work in tea plantations.
- Their main demand now is that they should be regarded on a par with repatriates covered under the *bilateral agreements of 1964 and 1974*.
- They did not want to be mixed up with the Tamil refugees from the Northern and Eastern Provinces of Sri Lanka.
- The Union and State governments labeled these refugees as "illegal migrants" as they had entered India without valid documents.
- The Centre maintains that the petitioners could not demand citizenship as a right even if they fulfilled the eligibility criteria.
- The authorities, however, assured the refugees in the early 1990s that they would not be forcibly deported.
- The Madurai bench of the Madras High Court agreed that granting citizenship was within the "exclusive executive domain" of the Centre.
- However, it asked the petitioners to apply for Indian citizenship.
- This is considered a moral victory for the petitioners as the judiciary has agreed, in principle, with their contention.

6.6 ICJ Verdict on Kulbushan Jadhav

The International Court of Justice (ICJ) has directed Pakistan to review Kulbhushan Jadav's conviction and, until then, put his death sentence on hold.

- The court has also asked Islamabad to allow New Delhi consular access at the earliest.
- Kulbushan Jadhav, 49, was arrested in Pakistan allegedly in March 2016.
- He was sentenced to death on charges of espionage and terrorism in April 2017.
- Pakistan alleges that Jadhav is a serving Indian naval officer, who was tasked by the Indian intelligence agencies to destabilize Pakistan.
- India, however, claims that Jadhav is a former Indian naval officer.

- He was running a business in Iran from where he was kidnapped and shown to have been arrested in Baluchistan.
- India also maintains that he had no links with the government.
- Despite repeated attempts, Pakistan had denied India consular access to Jadhav under Article 36 of the Vienna Convention on Consular Relations.
- [The convention deals with the arrest, detention and trial of a foreign citizen. Click here to know more.]
- India tried initiating legal proceedings against Pakistan before the ICJ for the violation of the convention on providing for consular access.
- However, Pakistan had argued that the International Court of Justice had no jurisdiction in this case.
- Later, the ICJ rejected Pakistan's argument in this regard.
- The court said it could hear the case because it involved an alleged violation of one of the clauses of the Vienna Convention.
- Notably, both Pakistan and India has ascribed to the convention and its interpretation falls under the ICJ's purview.
- The ICJ also directed that meanwhile, Pakistan should take all measures to ensure that Mr Jadhav is not executed till the final decision of the court.
- The court also said Pakistan should inform it of all measures taken in implementation of the order.
- However, this was a preliminary ruling and all issues were open for adjudication at the final stage. Click here to know more
- In the present verdict, Pakistan must undertake an "effective review and reconsideration of the conviction and sentence" of Kulbhushan Jadhav.
- Pakistan is under an obligation to inform Jadhav of his rights.
- It should also provide Indian consular officers access to him in accordance with Article 36 of the Vienna Convention on Consular Relations.

International Court of Justice

- The International Court of Justice (ICJ) was established in 1945 after half a century of international conflict in the form of two World Wars.
- The ICJ functions with its seat at The Hague, Netherlands.
- It has the jurisdiction to settle disputes between countries and examine cases pertaining to violation of human rights.
- It adjudicates cases according to the tenets of international law and is the judicial arm of the United Nations.
- ICJ is different from the ICC (International Criminal Court) which is a permanent tribunal created to prosecute individuals for genocide, crimes against humanity, war crimes and the crime of aggression.
- While ICJ is the primary judicial organ of the UN, the ICC is legally and functionally independent from the UN.

- [ICJ noted that Pakistan deprived India of the right to communicate with and have access to Kulbhushan Jadhav, to visit him in detention and to arrange for his legal representation.]
- However, ICJ rejected India's call on annulment of military court decision convicting Kulbhushan Jadhav, his release and safe passage to India.
- Pakistan had argued that India had failed to prove Jadhav's nationality.
- However, ICJ said that it was satisfied that the evidence was sufficient to be certain of Jadhav's Indian nationality.
- ICJ noted that there was a three-week delay in informing India about Jadhav's arrest on March 3, 2016.
- This has led to a breach of Pakistan's obligations under the convention.

6.7 India-Nepal Pipeline

Indian PM and his Nepalese counterpart K P Sharma Oli will inaugurate the Motihari-Amalekhgunj petroleum pipeline.

- The pipeline will transport fuel from Barauni refinery in Bihar's Begusarai district to Amalekhgunj in South-eastern Nepal, situated across the border from Raxaul in East Champaran district.

- According to the spokesperson of Nepal Oil Corporation (NOC), the 69-km pipeline will drastically reduce the cost of transporting fuel to landlocked Nepal from India.
- The Amalekhgunj fuel depot will have the capacity to store up to 16,000 kilolitres of petroleum products.
- The Motihari-Amalekhgunj pipeline project was first proposed in 1996, but progress was slow.
- Things began to move after Prime Minister Narendra Modi visited Kathmandu in 2014.
- The following year, the two governments signed an agreement to execute the project.
- However, political tensions, including India's alleged economic blockade of Nepal, acted as roadblocks in the implementation.
- In 2017, state-owned Indian Oil Corporation (IOC) signed a petroleum trade agreement to supply about 1.3 million tonnes of fuel annually to Nepal with a promise to double the volume by 2020.
- In July 2019, the two countries successfully concluded a testing transfer through the oil pipeline.

6.8 Mamallapuram Summit - India and China

2nd informal summit between leaders of India and China is to take place in the coastal town of Mamallapuram, south of Chennai.

- Mamallapuram, a World Heritage Site, is symbolic of India's 'soft power'.
- It is an important town of the erstwhile Pallava dynasty that ruled this part of south India from 275 CE to 897 CE.
- The site is renowned for its architecture, widely admired across the world.
- Mamallapuram and the Pallava dynasty are also historically relevant in regards with China.
- The earliest recorded security pact between China and India (in the early 8th century) involved a Pallava king (Rajasimhan, or Narasimha Varma II).
- It was from this Pallava king that the Chinese sought help to counter Tibet.
- Tibet had notably been emerging as a strong power posing a threat to China then.
- Little has changed as far as India-China relations are concerned since the Wuhan Summit.
- **Afghanistan** - Wuhan Summit raised hopes that the two countries would jointly work together on an economic project in Afghanistan.
- However, this has proved to be short-lived; the political situation in Afghanistan deteriorates.
- But even as this happens, China, along with countries like Pakistan, is keen more than ever on ensuring that India has no role to play in Afghanistan.
- **Circumstances** - After the Wuhan Summit, many things have changed, altering the circumstances surrounding India-China relations.
- Relations between China and the U.S. have sharply deteriorated.
- In 2018, the China-Russia axis appeared to be carving out an exclusive zone of influence in East Asia.
- But, by mid-2019, new alignments appear to be altering equations in the East Asian region.
- These include a further strengthening of India-Russia ties, and a new triangular relationship of Russia, India and Japan.
- China's Belt and Road Initiative (BRI) has also come under increasing attack, even from countries that earlier encouraged it.

6.9 China at Indian Sea - Shiyan Incident

Indian Navy, reportedly, "chased out" a Chinese vessel named 'Shiyan 1' from the Andaman Sea.

- This has drawn India's attention to China's growing maritime scientific capabilities and its ambitious research agenda for distant waters.

- Shiyan 1 was operating near Port Blair.
- It had neither taken prior permission from India nor did it inform the relevant Indian authorities of its plans.
- Shiyan 1 is operated by the Chinese Academy of Sciences.
- It is part of Beijing's growing marine research fleet that now stands at about 50 vessels.
- China accepted that Shiyan 1 was indeed "conducting acoustic propagation experiments and hydrologic environment measurements on the high seas of the Indian Ocean".
- However, it insisted that Shiyan 1 did not conduct any operations in the Indian EEZ (exclusive economic zone) during the whole process.
- It only sailed through the Indian EEZ on the way to and from the experimental area.
- Also, throughout the ship's voyage, the Indian navy aircraft followed it with warnings and its crew also replied in accordance with international practice.
- Notably, the UN Convention on the Law of the Sea (UNCLOS) favours freedom of marine scientific research.
- It also lets coastal states decide on granting permission for marine scientific research by other entities in their exclusive economic zones.
- In this context, China maintains that it was merely asserting its rights.
- It also expressed hope that Delhi would take a correct view of China's marine scientific research activities.
- The issue is not a technical one about the provisions of the law of the sea.
- It is instead about China's growing maritime scientific ambition.
- Beijing's expansive investment in marine scientific research is very much part of its rise as a great maritime power.
- China has leveraged marine science diplomacy to good effect in the South China Sea over the last many years.
- It has now begun to extend it to the Indian Ocean.
- In 2018, Shiyan-3 invited Pakistan scientists to join a research expedition in the Arabian Sea.
- Delhi must expect to see more of this in the Indian Ocean littoral.
- There are many grey areas in the law of the sea.
- These include the conduct of maritime scientific research in the waters that other states have sovereign control over.
- Great powers, rising or incumbent, tend to interpret international law to suit their interests and convenience.
- Weaker ones have no way of enforcing their rights under UNCLOS.
- More broadly, it is difficult to separate marine scientific research for peaceful and military purposes.

6.10 Rohingya Question at ICJ

Nobel Laureate Aung San Suu Kyi is to lead Myanmar's defence against charges of carrying out genocide against its Muslim Rohingya minority, at the International Court of Justice (ICJ).

- In 2017, the Myanmar military launched a brutal crackdown on Rohingya villages in the country's Rakhine state.
- An estimated 7.3 lakh Rohingya have fled to Bangladesh since then.
- The UN too recently said the army action was carried out with "genocidal intent".
- However, Myanmar has firmly denied all allegations of genocide.
- It has also denied nearly all allegations made by the Rohingya of mass rape, killings and arson against its army.

- Myanmar asserts that the soldiers carried out only legitimate counterterrorism operations.
- It is the Republic of the Gambia that took Myanmar's case to the ICJ.
- [Gambia is a tiny country on the west coast of Africa.
- It stretches out as a thin strip of territory on either side of the river Gambia before it empties itself into the North Atlantic Ocean.]
- The Gambia, which is predominantly Muslim, went to the ICJ in November 2019.
- It accused Myanmar of genocide, which is the most serious of all international crimes.
- The Gambia is backed by the 57-member Organisation for Islamic Cooperation (OIC).
- The case will be heard by 16 United Nations judges at the ICJ.
- Both the Republic of The Gambia and the Republic of the Union of Myanmar will have the opportunity to present themselves before the court.
- The hearings will be streamed live on the ICJ website.

International Court of Justice

- The International Court of Justice (ICJ) was established in 1945 after half a century of international conflict in the form of two World Wars.
- The ICJ functions with its seat at The Hague, Netherlands.
- It has the jurisdiction to settle disputes between countries and examine cases pertaining to violation of human rights.
- It adjudicates cases according to the tenets of international law and is the judicial arm of the United Nations.
- ICJ is different from the ICC (International Criminal Court) which is a permanent tribunal created to prosecute individuals for genocide, crimes against humanity, war crimes and the crime of aggression.
- While ICJ is the primary judicial organ of the UN, the ICC is legally and functionally independent from the UN.
- That is impossible in India, as there are thousands of Tamil refugees.

7. BILATERAL RELATIONS

7.1 Eastern Economic Forum

Indian PM speaks to Russian President during their talks at the 5th Eastern Economic Forum Vladivostok, Russia.

- India and Russia decided to step up industrial cooperation and create new technological and investment partnership, especially in advanced high-tech areas, with an aim to increase bilateral trade to $30 billion by 2025.
- They also agreed that the work on promoting mutual settlements of payments in national currencies will be continued.
- They agreed to more actively engage the impressive resource and human resources potential of India and Russia, enhance industrial cooperation, create new technological and investment partnership, especially in advanced high-tech areas and find new avenues and forms of cooperation.
- India-Russia bilateral merchandise trade was about $8.2 billion during 2018-19.
- Both the sides expressed their interest in expanding the participation of Russian business in 'Make in India' programme and that of Indian companies in investment projects in Russia.
- It was also agreed to intensify work for eliminating trade barriers.
- This would be facilitated, inter alia, by the proposed Trading Agreement between the Eurasian Economic Union (EAEU) and the Republic of India.
- The two sides have also agreed to cooperate in supply of coking coal from Russian Far East to India.

- India and Russia agreed to consider the prospects for expanding cooperation in hydro and thermal power, energy efficiency as well as for designing and constructing facilities that generate energy from non-conventional sources.
- Further, the two sides agreed to review possibility of expanding direct passenger and cargo flights including flights between various regions of both the countries.
- Also, the Sides acknowledged the opportunities to increase bilateral trade in the sphere of agriculture.

7.2 Industrial Security Annex

- The 2+2 dialogue between India and the U.S. was held in Washington, D.C.
- During the dialogue, both countries are expected to sign the Industrial Security Annex (ISA) and review the steps to operationalise the Communications Compatibility and Security Agreement (COMCASA).
- The ISA is part of the General Security of Military Information Agreement (GSOMIA), which India had signed with the U.S. many years ago.
- It will allow the transfer of defence technology
- It is crucial for U.S. companies bidding for big-ticket Indian deals to partner Indian private companies.
- It would be the first time India has entered into such a pact with any country, although the United States has such agreements in place with several countries.
- But the Basic Exchange and Cooperation Agreement for Geo-spatial Cooperation (BECA), which is under discussion, is unlikely to be concluded in the upcoming dialogue.

7.3 Annual Parliamentary Exchange

- The US and India have announced the establishment of an annual Parliamentary Exchange as a part of India-US 2+2 Ministerial dialogue.
- It will discuss issues of strategic importance to the bilateral relationship.
- It will feature members in the US and Indian parliamentarians travelling to each other's countries every other year to discuss issues of strategic importance to the bilateral relationship.

8. INTERNATIONAL ISSUES

8.1 St. Petersburg International Economic Forum – Russia-China Relations

The 23rd St. Petersburg International Economic Forum (SPIEF) was recently held in St. Petersburg, Russia.

- St. Petersburg International Economic Forum is Russia's annual investment gathering.
- The meet took place in the backdrop of heightened tensions between the U.S. and Russia and China.
- Unsurprisingly, it was boycotted by the U.S. Ambassador to Russia, Jon Huntsman.
- His absence was ascribed to the prevailing environment in Russia for foreign entrepreneurs.
- This is particularly in regards with the detention of U.S. private equity investor Michael Calvey on allegations of fraud.
- Conversely, the Chinese telecommunications equipment manufacturer Huawei signed an agreement with Russia's principal mobile operator to start 5G networks.

- This came after Washington blacklisted Huawei, prohibiting it from selling technology to the U.S.
- The U.S. also barred domestic firms from supplying semiconductors to Beijing.
- The rift between the West and Russia began with Moscow's annexation of Crimea in 2014 and the stand-off in eastern Ukraine that continues.
- Russia's tensions with the U.S. and some EU countries are also due to their opposition to the 1,200-km-long *Nord Stream 2 gas pipeline* from Russia to Germany.
- U.S. plans to export liquefied natural gas to Europe, which is partly the reason why it objects Russia's initiative.
- Thwarting Russia's ambition to dominate the region's energy market is also one of U.S.'s objectives.
- Another more sensitive issue is U.S. Special Counsel Robert Mueller's inquiry into possible Russian meddling in the 2016 U.S. presidential election.

8.2 Umbrella Movement

The 5th anniversary of the Umbrella Movement was recently marked.

- It is the first ever homegrown pro-democracy movement in HongKong, which is the semi-autonomous Chinese city.
- The name has its origin from the use of umbrellas as a tool against the Hong Kong Police's use of pepper spray to disperse the crowd.
- Hong Kong, at roughly 1,100 sq km, is smaller in size than Delhi, and is home to an estimated 7.4 million people.
- It was a British colony from 1841 until sovereignty was returned to China in 1997.
- Hong Kong is now part of China under the "one country, two systems" principle.
- Under this, the city of Hong Kong remains a semi-autonomous region with the Basic Law (the city's mini-constitution) for 50 years.
- This ensures that Hong Kong keeps its own judicial independence, its own legislature and economic system.
- It has its own laws and courts, and allows its residents a range of civil liberties.
- The 79-day sit-in laid siege to the government office compound on the right to free and fair elections.
- It took over parts of the downtown business district in the autumn of 2014, but failed to win any concession from Beijing.
- The movement regained momentum this year and has evolved into a new wave of pro-democracy movement.
- The Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019 was proposed by Hong Kong's government in February, 2019.
- Carrie Lam, who became Chief Executive of Hong Kong in 2017 as the candidate favoured by Beijing, is pushing for the amendments.
- The Bill will allow the local government to extradite a suspect to places with which the city has no formal extradition accord.
- In effect, this would allow suspects accused of crimes such as murder and rape to be extradited to mainland China to face trial.
- Once the law is changed, Hong Kong will also handover to China individuals accused of crimes in Taiwan and Macau.
- [Macau, like Hong Kong, is a Chinese special administrative region with significant autonomy.

- Taiwan is seen as a sovereign state but its sovereignty is highly contended, and it has a tense relationship with China.]
- The government says that the proposed amendments would plug loopholes in the criminal justice system.
- The current shortfalls allow criminals evade trial elsewhere by taking refuge in Hong Kong and allow the city to be used by criminals.
- The government has assured that, under the bill, the courts in Hong Kong would make the final decision on extradition.
- Three months of million-strong peaceful marches and violent clashes with police finally forced the government to withdraw the legislation recently.

8.3 India & UN Peacekeeping Operations

India is among the largest troop contributing countries to UN peacekeeping operations.

- Currently, 2,342 Indian troops and 25 police personnel are deployed with the UN Mission in South Sudan (UNMISS).
- About 850 Indian peacekeepers serving in South Sudan have been awarded the prestigious UN medal for their service and contribution to building peace in the strife-torn nation and supporting the local communities.
- The Indian troops were particularly praised for their efforts to support peace talks between the government and the opposition forces in the Upper Nile region and establishing the first-ever UNMISS base on the west bank of the Nile at Kodok.
- The peacekeepers also supported local communities by building veterinary hospitals, training cattle-keepers to better care for their livestock and provided life-saving medical assistance to people in need.
- Engineering troops from India serving with the UNMSS are working on rehabilitating 167-km of road.
- A team of medical staff from the Indian field hospital and a few other volunteers are also teaching how girls to ride a bike.

8.4 India & US - 2+2 Dialogue

The 2nd India-US 2+2 dialogue concluded in Washington.

- US Secretary of State along with Defense Secretary hosted their Indian counterparts External Affairs Minister and Defence Minister for the dialogue.
- India and the US have agreed to deepen their bilateral cooperation in areas of defence, counterterrorism and trade.
- They also agreed to work with like-minded countries for a free and open Indo-Pacific region.
- Cross-border terrorism emanating from Pakistan also featured during the talks.
- India shared its assessments of the situation in Afghanistan, Pakistan, Nepal, Sri Lanka, and the Indian Ocean region in general.
- India and the US also agreed to deepen cooperation to address regional and global threats, combat terrorism, coordinate on disaster relief, train peacekeepers, promote transparent and sustainable infrastructure, and advance maritime security, the statement said.
- Both delegations welcomed new initiatives to further strengthen people-to-people ties, including new exchange programs for parliamentarians and young innovators, increased judicial cooperation, the expansion of university research partnerships, and a new bilateral science and technology agreement.

8.5 Specially Designated Global Terrorist

*Recently, US has designated the leader of the Tehreek-e-Taliban Pakistan, Mufti Noor WaliMehsud, as a Specially Designated Global Terrorist (**SDGT**).*

- He is believed to have fought against the North Alliance alongside Afghan Taliban before the US invaded Afghanistan.

- Individuals or entities designated as SDGTs have either,
  1. already taken part in terrorist activities or
  2. believed to be potential threats by the Office of Foreign Assets Control (OFAC) of the US Department of the Treasury.
- An individual is designated as an **SDGT** by the US under the provisions of **Executive Order 13224**.
- The Order 13224was issued by President George W Bush in 2001, and which has been renewed annually thereafter.
- It was issued in the aftermath of the 9/11 attacks aimed atBlocking Property and Prohibiting Transactions with Persons Who Commit, Threaten To Commit, or Support Terrorism.
- Individuals acting as a part of terrorist organisations and financiers of these groups can be designated as SDGTs.
- Once an individual or an entity is designated an SDGT, their assets in the US or their possessions held by US persons are frozen or blocked.
- This includes leaders of terrorist organisations and individuals who have participated in terrorism-related training activities.
- Apart from SDGT, terrorist groups can be designated as "Foreign Terrorist Organisations" (**FTOs**) under the 'Immigration and Nationality Act of 1965'.

8.6 Brazil's "Dirty List"

"Dirty List" of employers was published in Brazil which had about 186 names.

- It is a registry of employers that have been found by the government to have engaged in slave labour.
- It was created in 2004 and it has been hailed by the United Nations as a key tool in Brazil's anti-slavery drive.
- The list is edited by the Division of Inspection for the Eradication of Slave Labor (DETRAE), a state body staffed by labour inspectors.
- If a labour inspector fines someone for employing slave labour, it starts an internal government procedure where the employer can defend himself.
- After all possibility of appeal is exhausted, if the employer is found guilty, his name or the name of his firm is added to the list.
- It will stay on the list for two years.
- During that time, labour inspectors will monitor the employer to see if labour conditions have improved.
- How often is the list published?
- Government guidelines state it can be updated at any time, but it must be published at least every six months.
- In Brazil, the judiciary and the executive branches are independent and can reach different conclusions.
- A person found guilty of engaging in slave labour faces up to eight years in jail.
- Beyond having their brand or names associated with slave labour, employers on the list have their access to credit lines by state banks restricted.

8.7 Zero Chance

The Australian government is launching a campaign 'Zero Chance'.

- It is to raise awareness among people trying to enter the country illegally by boats.
- The governmentsaid that the immigrants will be turned back from Australia if they attempt to come illegally by boat.
- Officials said that the people smugglers tend to lie about international immigration policies and might try to cheat them by telling them that the country's policies have changed following the recent elections.

- Those who wish to enter the country must apply through refugees resettlement programmes, and Australia works with the UNHCR to identify those people.
- The campaign will be undertaken through NGOs that have some partnerships with Australia.

8.8 US's Recognition of Israel's West Bank Settlements

The U.S. administration recently declared that the Israeli settlements on the West Bank are not illegal. Click here to know more on West Bank settlements.

- The "Green Line" was the 1949 armistice line that separates Israel from the West Bank.
- It is an illusion of the imagination of those who support the two-state solution.
- [The two-state solution envisages Israel for the Jewish people and Palestine for the Palestinian people.]
- That was replaced by a greater Israel, ruled by the Israeli nationality law passed in 2018.
- It states that only the Jews have the right of self-determination all over historical Palestine.
- It thus sanctions the continued colonisation of the country and upholds its apartheid system.
- This new reality requires a different approach by anyone caring for the future of the Palestinians and respecting their basic rights.
- This is now a struggle for a regime change.
- It allows half of the population living between the River Jordan and the Mediterranean to have all the privileges.
- They would thus continue to rob the other half of its living space, lands, rights, dignity and life.
- In this regard, popular or armed resistance on the way to liberation would have not been needed if the international community had responded rightly.
- The international diplomacy should have bravely examined the origins of the conflict in Palestine and on its basis, support a just and lasting solution.
- But, the international community, and mainly western political elites, fully support Israel.
- It also remains silent in the face of continued dispossession of Palestinians.
- It adopted the two-state solution as its mantra for what should be done.
- This was supported by the Palestinian leadership which hoped to salvage at least part of Palestine (22%).
- This approach too has failed miserably.
- The recognition of the U.S. of the illegal Jewish settlements in the West Bank is yet another indication that the two-state solution is dead.
- Israel has established that any sovereign Palestinian state is impossible.
- Moreover, now is the American administration's endorsement of Israel's wish to de-politicise the Palestinian question.
- It thus allows Israel to fully extend its sovereignty all over historical Palestine.
- It thereby rejects categorically the right of any Palestinian refugee to return.
- Notably, this was a right recognised by the UN in its Resolution 194 from December 11, 1948.
- Israel feels that it wasted 50 years in trying to push towards the two state solution.
- The end result of this effort was more Jewish settlements in the West Bank and a total separation between the Gaza Strip and the West Bank.

8.9 Impeachment of the U.S. President

Donald Trump has become the third US President in history to be impeached by the House of Representatives.

- The United States Congress of the federal government of the U.S. is a bicameral legislature.

- It comprises of the two chambers - the House of Representatives and the Senate.
- Impeachment refers to the 435-member House of Representatives approving formal charges against a President.
- The House acts as the accuser, voting on whether to bring specific charges against the President.
- A simple majority vote is needed in the House to impeach, after which the Senate conducts a trial.
- In effect, the House members act as the prosecutors and senators as the jurors.
- A two-thirds majority vote is required in the 100-member Senate to convict and remove a President from office.
- The chief justice of the U.S. Supreme Court presides over the trial.
- The House voted on two charges:
    1. the President abused his power
    2. the President had obstructed Congress
- The 'abuse of power' stemmed from Trump's alleged attempt to pressure Ukraine to announce investigations into his Democratic political rival, Joe Biden.
- The 'obstruction of Congress' was due to President's alleged refusal to co-operate with the impeachment inquiry.
- He also withheld documentary evidence and barred his key aides from giving evidence.
- The vote for the first article of impeachment, abuse of power, was passed 230-197 and the second, for obstruction of Congress, 229-198.
- Both votes fell along party lines with nearly all Democrats voting for the charges and all Republicans against.
- Mr Trump had personally blocked nearly $400m in military aid to Ukraine.
- At about the same time, he spoke by phone with Ukraine's new President.
- The aid was allegedly withheld to pressurize Ukraine's President to investigate a leading domestic political rival of Trump, Joe Biden.
- [Joe Biden is the front-runner for the 2020 Democratic presidential nomination in the U.S.]
- A U.S. intelligence official filed a whistleblower complaint to the intelligence community's inspector general in this regard.
- The allegation now is that Mr Trump used the power of his office to solicit interference from a foreign country in the US 2020 election.
- Mr Trump has denied the charges, saying the aid was not withheld in order to put pressure on Ukraine.

8.10 Russia's Ban from Global Sporting Events

The World Anti-Doping Agency (WADA) has decided to ban Russia from global sporting events for a four-year period.

- The issue has its roots in the scandal that erupted on the eve of the 2016 Rio Olympics.
- Whistle-blower reports alleged Russia for running one of the most sophisticated doping programmes.
- The allegations were of replacing dope-tainted urine samples with clean ones during the 2014 Winter Olympics in Sochi, Russia.
- There was active collusion of Russian anti-doping experts, the sports ministry and members of the country's intelligence service in this.

World Anti-Doping Agency

- The World Anti-Doping Agency (WADA) was established in 1999.
- It is an international independent agency composed and funded equally by the sport movement and governments of the world.
- Its key activities include scientific research, education, development of anti-doping capacities, and monitoring of the World Anti-Doping Code (Code).
- The Code is the document harmonizing anti-doping policies in all sports and all countries.

- In September 2018, as part of the resolution of that case, Russia reluctantly agreed to open up its database to corroborate the findings of the reports.
- WADA has now ruled that the country manipulated this very database in order to cover up large-scale violations.
- The anti-doping watchdog's move will hurt Russia the most at the 2020 Tokyo Olympic Games and the 2022 Beijing Winter Olympics.
- The nation's flag, name and anthem will not be allowed in these occasions.
- Russia can approach the Court of Arbitration for Sport with an appeal within three weeks.
- But, if the sentence is upheld, it could bar Russia from participation in several high-profile global sporting events including the 2022 football World Cup in Qatar.

8.11 Power of Siberia Gas Pipeline

- Russia, one of the world's largest exporters of natural gas, is launching a major pipeline from Siberia to China.
- The power of Siberia gas pipeline is the first cross-border gas pipeline between Russia and China.
- The pipeline will cover 8,000 km connecting Siberia to China's Yangtze river delta in Shanghai.
- **Route** – Gas is being sourced from Chayandinskoye and Kovytka fields in eastern Siberia, and is then piped to Blagoveshchensk, the last town on the Russian side of the border.
- From there, it is tunnelled under the Amur River, before entering Heihe on the Chinese side which stretches for 5,111 km inside china.
- Under the agreement, Russia will deliver 1 trillion cubic meters of natural gas to China over the next 30 years.
- The project is anchored by a $400 billion gas deal.

8.12 Operation Peace Spring

- It is a military operation launched by Turkey against the Syrian Democratic Forces in Northeast Syria.
- The Turkish Armed Forces together with the Syrian National Army launched this after U.S. troops pulled back from the border area last week.
- It is to prevent the creation of a terror corridor across border, and to bring peace to the area.

- It is to create a safe zone to ensure that Syrian refugees return to their home countries.