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1. RIGHTS ISSUES

1.1 Minority Status to Lingayats

The Central Government has rejected the Karnataka Government’s proposal seeking a separate minority religion status for the Lingayat community.

- The Centre gave two reasons for rejecting the proposal,
  1. Lingayat has always been classified under Hindus ever since the first official census in India - 1871
  2. If Lingayats are treated as a separate religion by providing separate code other than Hindu, all members of the Scheduled Caste professing Lingayat would lose their status as SC along with the consequential benefits.

1.2 Chin Refugees

Eight organizations of the Chakma community submitted a memorandum to the Ministry of Home Affairs seeking the inclusion of Chin refugees in India by amending the Citizenship (Amendment) Bill, 2016.

- The bill currently allows illegal migrants who are Hindus, Sikhs, Buddhists, Jains, Parsis & Christians from Afghanistan, Bangladesh and Pakistan, eligible for citizenship.
- They want to add Myanmar to the list.
- The Chins are one of the major ethnic groups in Myanmar and are mostly Christians.
- They are ethnically related to Mizos of Mizoram and the Kuki-Zomi groups in Manipur.
- Buddhist-majority Myanmar was governed by a military junta since the 1960s, until recently.
- They carried out forced assimilation and repression of the Chin people.
- About 4,000 Chin refugees were registered with the UNHCR in New Delhi.
- But in June 2018, the UNHCR decided to cancel their ‘refugee status’ on the ground that Myanmar has now become “stable and secure” and they don’t need “international protection”.

1.3 Priority for Kannadigas in Private Sector Jobs

Karnataka cabinet has decided to introduce Sarojini Mahishi Committee recommendations to give 100% reservation for Kannadigas in Group C and D jobs in private establishments.

- The Sarojini Mahishi Committee report of 1986 recommended job reservations for Kannadigas in government jobs, public sector units and even in the private sector.
- The report recommended that jobs in the private sector should be reserved for Kannadigas except for senior, skilled positions.
- The other recommendations include:
  i. a minimum of 80% reservation for Kannadigas in Group B jobs
  ii. a minimum of 65% reservations in Group A jobs
- The recommendations so far had not received legal backing and were not enforced, and jobs for Kannadigas were only made a priority as there were opinions that it violates Article 19 of the Constitution.

Whom will the decision apply to?

- Kannadiga - According to the report, a Kannadiga is not just someone who has lived in the state for 15 years, but who can speak, read, and write Kannada 'reasonably well'.
- Group C&D - According to the central government, Group C jobs include non-supervisory roles like clerks, stenographers, typists, and telephone operators.
- Group D jobs include manual workers like peons, sweepers, and watchmen.
- **Employers** - Establishments set up in Karnataka, especially those that directly or indirectly benefit from the government will have to adhere to the rule.
- The benefits may refer to industrial concessions, tax concessions, land tax rebate, energy rebate or industrial policy incentives.
- Information Technology/Biotechnology sector and other sectors that demand technical knowledge will be exempted from this change.
- Amendments would be made in this regard to the Karnataka Industrial Employment Standing Orders, Rule 1961.
- **Complaints** - Applicants who have been wrongfully denied a job can now write to the Deputy Commissioner (DC) of the district, complaining about the company.
- If the charges are proved, the DC can issue a notice to the company.
- The government can then revoke incentives or facilities given to the company.

### 1.4 MHA Notification on Computer Surveillance

*Ministry of Home Affairs recently issued a notification authorising 10 central agencies to intercept information related to computer resource.*

- The government authorised 10 central agencies to intercept, monitor and decrypt any information generated, transmitted, received or stored in any computer in the country.
- These agencies include Intelligence Bureau, Narcotics Control Bureau, Enforcement Directorate, Central Board of Direct Taxes, Directorate of Revenue Intelligence, CBI, NIA, Cabinet Secretariat (RAW), Directorate of Signal Intelligence and the Commissioner of Police, Delhi.
- The order is facilitated under sub-section 1 of the section 69 of the IT Act, read with rule 4 of the Information Technology Rules, 2009.
- The IT Act allows the authorities to decrypt information if it is in the interest of –
  1. The sovereignty or integrity of India
  2. The security of the State
  3. Friendly relations with foreign States
  4. Public order
  5. Preventing incitement to the commission of any cognisable offence.
- The IT rules states that a competent authority can authorise a government agency to intercept, monitor or decrypt information generated, transmitted, received or stored in any computer resource.
- However, opposition leaders and experts have called it “unconstitutional” and “an assault on fundamental rights”.

**Clarifications given by the Home Ministry**

- The notification is aimed at ensuring that any interception, monitoring or decryption of any information through any computer resource is done in accordance with *due process of law.*
- It is also aimed at preventing any unauthorized use of these powers by any agency, individual or intermediary.
- All agencies will have to take the approval of the Home Secretary before intercepting or monitoring data stored in computer.
- These powers are also available to the competent authority in the State governments as per IT Rules 2009.
- The order is in accordance with rules already framed in 2009 and hence *no new power has been conferred* to any of the security or law enforcement agencies.
- Also, similar provisions and procedures already exist in the Telegraph Act along with identical safeguards.
- The present notification is analogous to the authorisation issued under the Telegraph Act.
2. PARLIAMENT & STATE LEGISLATURE

2.1 Law Against the Offence of Sextortion

- Sextortion refers to sexual exploitation of women by those in positions of authority, having a fiduciary relationship, or a public servant.
- Jammu & Kashmir has become the first State in the country to bring a law to prevent people in power from exploiting subordinates sexually.
- J&K Governor has approved an amendment to Jammu and Kashmir Criminal Laws (Amendment) Bill, 2018, to incorporate the new Section.
- He also approved Prevention of Corruption (Amendment) Bill, 2018 to amend the definition of misconduct and to provide that demand for sexual favours would also constitute misconduct within the meaning of Section 5.

2.2 Nagaland under AFPSA

- The Central government has recently extended the Armed Forces Special Powers Act in Nagaland for 6 more months.
- Under AFSPA, security forces have the powers to conduct operations anywhere and arrest anyone without any prior notice.
- The AFSPA has been in force in Nagaland for several decades.
- It has not been withdrawn even after a framework agreement was signed on August, 2015 by Naga insurgent group NSCN-IM.

AFSPA

- Armed Forces (Special Powers) Act 1958, 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.
- 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.

2.3 Renaming of Allahabad

- Union Home Ministry has approved the UP government’s proposal to rename Allahabad as Prayagraj.
- For changing the name of a village or town or a city, just an executive order is needed.
- The renaming of a state requires amendment of the Constitution with a simple majority in Parliament.
- A bill to change the name of the state shall be introduced in either House of Parliament only on the recommendation of the President.
- The bill should also referred by the President to the Legislature of that State for expressing its views.
- According to the existing guidelines for renaming of railway stations, villages, towns and cities,
  i. It is mandatory to obtain a No Objection Certificate (NOC) from the Union Home Ministry by the respective state government.
ii. The Union Home Ministry considers the proposals of name change in consultations with Ministry of Railways, Department of Posts and Survey of India.

iii. These organisations have to confirm that there is no such city, town or village in their records with a name similar to the proposed one.

2.4 Consultative Committee

- The Union Minister of Consumer Affairs chaired an Inter-Session Consultative Committee Meeting.
- The Ministry of Parliamentary Affairs constitutes Consultative Committees of Members of both the Houses of Parliament for different ministries.
- The Minister in-charge of the Ministry concerned acts as the chairman of the Committee.
- The main purpose of these Committees is to provide a forum for informal discussions between the Government and Members of Parliament on policies and programs of the Government and the manner of their implementation.
- Meetings of these Committees are held both during the session and inter-session period of Parliament.

2.5 Privilege motion

*The congress party has moved a privilege motion against PM and Defence minister, for misleading the parliament in the Centre’s affidavit on the Rafale deal by making claims about a non-existent CAG report.*

- Parliamentary privileges are certain rights and immunities enjoyed by members of Parliament, individually and collectively, so that they can “effectively discharge their functions”.
- When any of these rights and immunities are disregarded, the offence is called a breach of privilege and is punishable under law of Parliament.
- Each House also claims the right to punish as contempt actions which, while not breach of any specific privilege, are offences against its authority and dignity.
- According to Rule book of Lok Sabha & Rajya Sabha, a member may, with the consent of the Speaker or the Chairperson, raise a question involving a breach of privilege either of a member or of the House or of a committee.
- The rules however mandate that any notice should be relating to an incident of recent occurrence and should need the intervention of the House.
- The Speaker/RS chairperson is the first level of scrutiny of a privilege motion. He/She can decide on the privilege motion himself or herself or refer it to the privileges committee of Parliament.
- If it is passed to privileges committee, a report is then presented to the House by the committee for its consideration.
- The Speaker may permit a half-hour debate while considering the report.
- A resolution may then be moved relating to the breach of privilege that has to be unanimously passed.
- **Privilege Committee** - In the Lok Sabha, the Speaker nominates a committee of privileges consisting of 15 members as per respective party strengths.
- In the Rajya Sabha, the deputy chairperson heads the committee of privileges, that consists of 10 members.
- A large number of notices are rejected, with penal action recommended in only a few.
- **Notable privilege motion** - The most significant case was in 1978 when Indira Gandhi, who had just won the Lok Sabha elections from Chikmaglur, was expelled from the House.
- Then home minister Charan Singh moved a resolution of breach of privilege against her following observations made by the Justice Shah Commission which probed excesses during the Emergency.

2.6 Vote on Account (VoA)

- The Union Budget is nothing but a projected income and expenditure statement for the coming year.
- As per the Constitution, all the revenue received and the loans raised by the Union government are parked in the Consolidated Fund of India (CFI).
- **Article 266** mandates that Parliamentary approval is required to draw money from the CFI
• So, the Budget has to be approved by Parliament before the commencement of the new financial year.
• But the discussion and passing of Budget generally goes beyond the current financial year.
• So a special provision called “Vote on Account” is used, where the government obtains the vote of Lok Sabha to withdraw money from CFI to keep the money flowing for the government’s day to day functions, until the Budget is passed. (Article 116).
• e.g Salary to government employees, loan interest payments, subsidies, pension payments etc.
• It is also used in the years where Lok Sabha elections are due.
• But here vote on account is also presented along with minor policy changes, as it would be improper for the outgoing government to impose major budgetary constraints on its successor.
• Such a measure that includes both short term expenditure and income part is called an Interim Budget.
• The vote-on-account is normally valid for 2 months and is in operation till the full Budget is passed.
• But during an election year, it may be extended for more than 2 months.
• VoA is usually passed without much discussion as it typically does not seek funds for major projects or new initiatives.
• It usually does not contain any direct tax proposals, as that requires amendments to the Finance Bill.
• On indirect taxes though, there could be clarifications or minor tweaks.
• On the downside, the country may lose crucial time on developmental projects during the hiatus after the vote on account.

2.7 Reservation for the ‘Poor Forward’

The Union Cabinet has cleared a Bill seeking to provide 10% reservation to the economically backward among the ‘general category’.

• It seeks to provide 10% reservation in government higher education institutions and government jobs to the economically weaker sections among the upper castes.
• This refers to non-Dalits, non-Other Backward Classes (OBCs) and non-tribals - essentially, the upper castes or so-called ‘forwards’.
• It will apply for general category individuals -
  1. whose family together earn less than Rs.8 lakh per annum
  2. who have less than 5 acres of agricultural land
• It also excludes those individuals whose families own or possess -
  1. a residential flat of area 1,000 sq ft or larger
  2. a residential plot of area 100 yards or more in notified municipalities
  3. a residential plot of area 200 yards or more in areas other than notified municipalities.
• The proposals in the Bill, to become a reality, will need an amendment of -
  1. Articles 15 (prohibition of discrimination on grounds of religion, race, caste, sex or place of birth) of the Constitution
  2. Article 16 (equality of opportunity in matters of public employment) of the Constitution
• The amendment will have to be ratified in both Lok Sabha and Rajya Sabha, by at least two thirds of members present and voting.
• It also has to be passed by the legislatures of not less than half the states.
• Contentions with the present Bill - Violation of Constitution - Articles 330-342 under Part 16 of the Constitution outline special provisions for certain classes.
• The Constitution identifies only four such classes - SCs, STs, Backward Classes and Anglo Indians.
• The Constitutional promise is explicitly for social exclusion and discrimination.
• Notably, the “socially and educationally backward classes” was the target group in quotas for OBCs.

• So, the quota for the poor among the upper castes has been seen essentially as a poverty alleviation move dressed up as reservation.

• Ambiguity - There have been disagreements as to the proportion of population living in poverty in the country.

• The Arjun Sengupta Committee (April 2009) estimated that 77% of India’s population were surviving on less than Rs 20 per day.

• In November 2009, Suresh Tendulkar Committee estimated India’s combined rural–urban poverty headcount ratio in 2004-05 at 37.2%.

• Given this, the Rs 8 lakh per annum limit in the Bill clashes with the poverty line concepts and seems arbitrarily set up to cover a wider proportion.

• Violations to the Constitution - Definition of backward class - A nine-judge Constitution Bench of the Supreme Court reiterated this viewpoint in the Indira Sawhney case of 1992.

• It categorically held that “a backward class cannot be determined only and exclusively with reference to economic criterion.”

• “It may be a consideration or basis along with, and in addition to, social backwardness, but it can never be the sole criterion”.

• Sacrifice of Merit - A total 59% (49%+10%) quota would leave other candidates with just 41% government jobs or seats. This may amount to “sacrifice of merit” and violate Article 14.

• Basic Structure - If the government proposes to bring a constitutional amendment to include the 10% quota KesavanandaBharatijudgment may stand in the way, as it violates Article 14.

• The judgment held that constitutional amendments which offended the basic structure of the Constitution would be ultra vires.

• This proposed Bill finds an echo in an ordinance promulgated in Gujarat in 2016, which provided 10% quota to upper castes there.

• But the Gujarat High Court in the Dayaram Khemkaran Verma Vs State of Gujarat quashed the ordinance in August 2016.

2.8 EWS in J&K

• President issued an order extending the benefits of reservation to economically backward sections in Jammu and Kashmir.

• This would pave the way for reserving State government jobs to the youth of Jammu and Kashmir who are from economically weaker sections belonging to any religion or caste.

• The Central government’s move came as Jammu and Kashmir is currently under the President’s Rule.

• It will extend benefits for the EWS in higher educational institutions and government jobs in addition to the reservation for the other categories.

• 10% reservation to economically weaker sections was introduced in the rest of the country through the 103rd Constitutional Amendment in 2019.

2.9 125th Constitution Amendment Bill

• The government introduced a 125th Constitution Amendment Bill in Rajya Sabha to increase the financial and executive powers of the 10 Autonomous Councils in the Sixth Schedule areas of the northeastern region.

• Sixth Schedule deals with the administration of Tribal areas in Assam, Meghalaya, Mizoram and Tripura.

• The tribal areas in these 4 states have been constituted as Autonomous districts. Such districts do not fall outside the executive authority of the state concerned.

• The governor is empowered to organise and reorganise the autonomous districts.

• Governor is empowered to declare some tribal dominated districts / areas of these states as autonomous districts and autonomous regions by order.

• Article 244 and 275 make provision for creation of the Autonomous District Councils and regional councils.
• Each district / regional council is empowered for administration of the area under its jurisdiction.
• The councils consist of 30 members of whom maximum 4 members shall be nominated by the Governor and the rest shall be elected on the basis of adult suffrage.
• The elected members of the District council shall hold office for a term of five years.
• The council have powers to make laws on matters of local importance with assent from Governor.
• The district and regional councils within their territorial jurisdiction can constitute village councils or courts for trial of suits.
• The acts of Parliament or the State legislature would not extend to these districts unless the council directs by public notification.
• The proposed legislation was announced in wake of the protest in Northeast following passage of the Citizenship Amendment Bill, 2019 in Lok Sabha.

Proposed amendments
• It provides for elected village municipal councils, ensuring democracy at the grassroot level.
• The village councils will be empowered to prepare plans for economic development and social justice including those related to agriculture, land improvement, implementation of land reforms, minor irrigation, water management, animal husbandry, rural electrification, small scale industries and social forestry.
• The Finance Commission will be mandated to recommend devolution of financial resources to them
• At present, the autonomous councils depended on grants from Central ministries and the state government for specific projects.
• At least one-third of the seats will be reserved for women in the village and municipal councils after the amendment is approved.
• The amendment will impact one crore tribal people in Assam, Meghalaya, Tripura and Mizoram.

2.10 Jammu & Kashmir Resettlement Law
The “Jammu & Kashmir resettlement law” was challenged and the Supreme Court is soon to hear it.
• It is known as the J&K Grant of Permit for Resettlement in (or Permanent Return to) the State Act, 1982.
• It was passed by the Assembly to provide for regulation of procedure for grant of permit for resettlement.
• Mass killing of Muslims in Jammu in 1947 and its ramifications are the main reason why the law was introduced.
• Muslims were said to have been systematically exterminated unless they escaped to Pakistan along the border.
• The State Government thus passed the Bill under the terms of Section 6 of the J&K Constitution.
• This has a provision for those who were stuck in areas that became Pakistan in 1947.
• Under the provision, these people can return and the Indian Constitution’s Articles 5 and 7 too permit it.
• The Bill was introduced in March, 1980 by National Conference (NC) leader Abdul Rahim Rather and became law in October, 1982.
• Both Houses of the state legislature passed the Bill in April 1982 but Governor B K Nehru returned it for reconsideration.
• Amid the Congress’s opposition, the Bill was again passed by both Houses, and this time the Governor gave assent.
• But then President Giani Zail Singh had already sent a presidential reference to the Supreme Court seeking its opinion on the law’s constitutional validity (Article 142).
• The case remained pending for almost two decades until November, 2001.
• After this, a five-member Constitution Bench returned it unanswered.
• Later, Jammu-based Panthers Party challenged the law in the SC.

The Centre’s executive order amending the Constitution (Application to Jammu and Kashmir) Order, 1954 is challenged in the J&K high court.

- The Union Cabinet recently approved the proposal of the J&K Governor’s administration to amend the Constitution (Application to Jammu and Kashmir) Order, 1954.
- Following this, President Ram Nath Kovind issued an executive order amending the 1954 Order.
- The objective was to extend the provisions of the 77th and 103rd Constitutional Amendments to the state.
- The Centre said that the amendment would give benefit of promotion in service to the Scheduled Castes, and Scheduled Tribes.
- It would also extend the 10% reservation for economically weaker sections in educational institutions and public employment.
- The Centre’s move has now been challenged in the Jammu & Kashmir High Court.
- **Reasons** - Major J&K parties said the order violated Article 370 which regulates J&K’s relationship with the Union.
- The power of the Governor to make the recommendation without the concurrence of the state government has been challenged.
- The petition pleaded the court to struck down -
  1. The Constitution (Application to Jammu & Kashmir) Amendment Order, 2019
  2. The Jammu and Kashmir Reservation (Amendment) Ordinance, 2019
- In 1986 too, an amendment to the 1954 Order was issued just with the concurrence of Governor’s administration.
- It extended to J&K, Article 249 of the Indian Constitution, which describes the power of Parliament to legislate, in the national interest, even on matters in the State List.
- The petition challenging this is still pending.
- **Status of J&K** - Maharaja Hari Singh, who was ruling J&K, signed the Instrument of Accession (IoA) in October, 1947.
  - J&K then gave up control over only 3 subjects which are Defence, Foreign Affairs, and Communications.
  - A separate Constituent Assembly of J&K was planned to frame the J&K Constitution, and to work out J&K’s constitutional relationship with New Delhi.
  - Under Article 370 of the Indian Constitution, only two articles of the Constitution apply to J&K.
  - One is Article 1 which defines India, and the other is Article 370 itself.
  - Article 370 provides that other provisions of the Indian Constitution can apply to J&K “subject to such exceptions and modifications as the President may by order specify”.
  - Notably, this is done only with the concurrence of the state government.
- **1954 Presidential Order** - The decisions to extend the provisions of the Indian Constitution other than those specified in the IoA had to be ratified by the J&K Constituent Assembly.
  - The J&K Constituent Assembly was yet to be set up then.
  - But the Centre wanted to extend a few provisions of the Constitution to streamline J&K’s relationship with the Union.
  - Thus, a Presidential Order was issued on January 26, 1950 itself, with the state government’s concurrence.
  - On November 5, 1951, J&K’s Constituent Assembly was convened.
  - Soon, the 1950 Order was replaced by The Constitution (Application to Jammu and Kashmir) Order, 1954.
  - This Order applied to J&K the provisions of Part-III of the Indian Constitution that relates to fundamental rights.
• Besides, it introduced Article 35A which protected laws passed by the state legislature of J&K in respect of permanent residents.

• Any protections offered to its residents cannot be challenged on the ground that they violated any of the fundamental rights.

• This order was ratified by the Constituent Assembly that also framed the J&K Constitution, before dispersing in November, 1956.

• **Contentions** - The 1954 Order had the requisite concurrence of both the state government and the J&K Constituent Assembly.

• But subsequently, 42 Presidential orders have been issued, all of which were amendments to the 1954 mother order.

• Through these orders, successive central governments have extended 94 out of the 97 entries in the Union List, and 26 out of the 47 in the Concurrent List to J&K.

• They have also made 260 out of the 395 Articles of the Indian Constitution applicable to J&K.

• This list does not include The Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest (SARFAESI) Act, 2002, and the GST Acts.

• But notably, none of these amendments to the 1954 Order have fulfilled the requirement of ratification by the J&K Constituent Assembly.

• To this, the Centre has argued that an elected state government’s consent is enough.

• In 1959, the Supreme Court too observed that the Constitution-makers were anxious that the said relationship should be finally determined by the State’s Constituent Assembly itself.

• A decade later, the court ruled that Presidential orders could still be made through Article 370.

• Also, in 1972, the court said the Governor is the head of government aided by a council of ministers.

• **Present order** - The latest order only has the consent of the Governor without the requisite aid and advice of the Council of Ministers.

• Understandably, the Governor acts only as a nominee of the Union government.

• S/he does not meet the definition of state government as laid down by Article 370 and the Supreme Court.

• Major J&K parties have also always opposed the amendments to the 1954 Order without ratification by the Constituent Assembly of the state.

2.12 **Dissolution of Jammu and Kashmir Assembly**

*Jammu and Kashmir Governor Satya Pal Malik recently dissolved the State Assembly, amidst tussle in forming government.*

• The Jammu and Kashmir State has been under Governor’s rule since June.

• It was the time when BJP withdrew from the coalition and Chief Minister Mehbooba Mufti, of Peoples Democratic Party, resigned.

• The PDP and the National Conference had not initiated any move to form a popular government for months.

• They had been idle for long, favouring fresh elections.

• The Governor’s move came soon after PDP leader Mehbooba Mufti staked claim to form government.

• She cited a collective strength of 56 MLAs in the 87-member House, with the support of the National Conference and Congress.

• A separate claim to form a government was made by Sajad Gani Lone of the two-member People’s Conference.

• He claimed support of the BJP and 18 MLAs from other parties.

• The governor stated reasons for his action are
  i. extensive horse trading (vote trading)
  ii. the possibility that a government formed by parties with “opposing political ideologies” would not be stable
• He also mentioned the fragile security scenario in the state, which calls for a stable and supportive environment for security forces.

• The Governor ought to have known that the Supreme Court has earlier disapproved these kinds of reasoning.

• The court has said it was the Governor’s duty to explore the possibility of forming a popular government.

• He could not dissolve the House solely to prevent a combination from staking its claim.

• In Rameshwar Prasad (2006) case, the then Bihar Governor Buta Singh’s decision to dissolve the Assembly was held to be illegal and mala fide.

• In Bihar, the Assembly was then in suspended animation as no party or combination had the requisite majority.

• Delay in forming government cannot be the reason for the Governor to dissolve the 87-member House.

• But the Governor has dissolved the Assembly without giving any claimant an opportunity to form the government.

2.13 Supreme Court Verdict on Delhi vs Centre Case

A two-judge bench of the Supreme Court gave its verdict on the power tussle issue between the Delhi government and the Centre.

• The dispute on exercise of power was primarily over two issues -
  i. on Services i.e. the power to appoint, post and transfer officials in Delhi administration
  ii. on control over the Anti-Corruption Branch in Delhi

• The two judges were divided on the services issue and so it has been sent to a larger bench.

• But they unanimously agreed that the Centre had absolute power in control over the Anti-Corruption Branch (ACB) in Delhi and the power to institute commission of enquiry.

• [The ACB is to investigate offences under the Prevention of Corruption Act.]

• The following would come under the Delhi government -
  i. electricity and revenue departments (fixing of circle rates)
  ii. posting and transfer of Grade 3 and Grade 4 officers
  iii. appointing special public prosecutor
  iv. appointment of directors in discoms

• LG - On the rates for agricultural land, the Lieutenant Governor (LG) can form an opinion but not on each and every matter.

• LG is not expected to differ routinely but only in convincing cases.

• The court held that the LG is expected to honour the wisdom of the ministers and not sit over their decisions.

• On issues where LG and ministers differ, the LG is supposed to refer the difference to the President.

• The decision taken henceforth cannot be implemented without referring to LG.

• The court had earlier ordered that the LG did not have independent decision-making powers and the real power had to lie with the elected government.

2.14 Protest in Mizoram - Citizenship (Amendment) Bill and the Chakmas

Among various Northeastern states protesting against the Citizenship (Amendment) Bill, Mizoram witnessed massive demonstrations. Click here to know more on the Bill.

• The Citizenship (Amendment) Bill amends the Citizenship Act, 1955.

• It relaxes the citizenship eligibility rules for immigrants belonging to six minority (non-Muslim) religions from Afghanistan, Bangladesh or Pakistan.

• Political parties and non-political groups in the Northeast (NE) have protested due to the potential impact on the region’s demography.
• The Bill is also questioned for its constitutionality as it grants citizenship on the basis of religion.
• For protesters in Assam, Meghalaya and Tripura, the concern is about Hindu immigrants from Bangladesh.
• The Assam Accord lays down 1971 as the cutoff for acceptance as citizens.
• The National Register of Citizens is being updated based on this cutoff, which does not differentiate on the basis of religion.
• But in Mizoram, the concern is not about Hindu immigrants from Bangladesh but about Chakmas, a tribal and largely Buddhist group.
• The Chakmas are present in parts of the Northeast, and the Chittagong Hill Tracts of Bangladesh with which Mizoram shares an international border.
• While Christians form 87% of Mizoram’s 11 lakh population (2011), Chakmas number about 1 lakh.
• Chakmas are clearly identified as ‘non-Mizo’ by the Mizos, and there is no attempt at incorporating them as Mizo.
• Notably, the Chakmas do not want to identify themselves as Mizo.
• Certain sections in Mizoram blame Chakmas for illegal migration from Bangladesh, which the community denies.
• Large-scale migrations are said to have taken place in 1964.
• This was caused by inundation of their land due to the damming of the Karnaphuli river for a hydro-electric project in Bangladesh.
• 1980-4 migrations were caused by insurgency in the Chittagong Hill Tracts led by the Hills Peoples’ Movement of Bangladesh.
• In 1901, there were only 198 Chakmas in Mizoram and by 1991 it was over 80,000, as per census data.
• The growth rate is far more than normally possible, proving that there has been influx from Bangladesh.
• The state has seen ethnic violence, names of Chakmas being struck off voters’ lists, and denial of admission to Chakma students in college.
• There are even calls to expel them from Mizoram.
• Given these, if the Bill is passed, Chakmas who have illegally migrated from Bangladesh will become legal Indian citizens.
• Also, in some time, possibly Mizos could become a minority in their own land.
• The protests are serious because protesters, notably, displayed posters that proclaimed “Hello China, bye bye India”.

2.15 Sale of Enemy Property

The Cabinet approved the sale of ‘enemy shares’ that are in the custody of the Ministry of Home Affairs or the Custodian of Enemy Property of India recently.

• As per the Enemy Property Act, 1968, ‘enemy property’ refers to any property that was belonging to a person who migrated from India to an enemy country when a war broke out.
• During World War II, the US and the UK took over the properties of people who fled their shores to settle in ‘enemy’ countries such as Germany and Japan.
• This was touted as a move to protect their turf from hostile forces in enemy States who might take control of such assets and use it to their advantage.
Similarly, in India too, after the war with China and Pakistan in 1962 and 1965, the government took over the properties, under the Defence of India Act, from persons who migrated to these countries.

The confiscated property included both movable and immovable properties such as securities, jewellery, land, and buildings.

Later in 1968, a law called the Enemy Property Act was enacted to regulate such properties and entrusted with the Custodian of Enemy Property (CEPI).

Now, for the first time, the government has decided to sell off the property held in the form of shares ('enemy shares') which are lying with the custodian.

The sale is expected to fetch about Rs 3,000 crore and will be counted as disinvestment.

It expects to use these proceeds from sale for development and social welfare programmes.

With the Cabinet approval, the disposal of other properties such as land and building could also likely to happen.

**Significance** - The property now approved for sale consists of about 6.5 crore shares which are under the custody of CEPI belonging to 20,323 shareholders in 996 companies.

Of these, 588 companies are currently functional and 139 are listed on stock exchanges.

Hence, selling these shares will lead to monetisation of assets that have been lying dormant for decades.

The government also made amendments to The Enemy Property Act, 1968 recently.

It has made even the property lawfully transferred by the ‘enemy’ (the fleeing citizen) to his/her legal heir or successor before migrating to Pakistan or China, to come under enemy property.

To illustrate, say a person ‘A’ transferred his property to his son in 1963 and migrated to Pakistan during the war in 1965.

After the amendment to the Act, the property transferred by A before migrating, now owned by his son, also falls under the definition of ‘enemy property’ and can be confiscated.

Thus, inheritance law will not be applicable on Enemy Property.

The government introduced this amendment to put an end to the long-lasting disputes on claims made by the legal heirs.

Thus, these measures come at a time when the government facing the concerns with the twin deficits and hence it can pave the way to balance its budget.

**Ongoing process** - The process for selling these shares is to be approved by the Alternative Mechanism (AM) under the chairmanship of finance minister.

The other members of the committee will include Minister of Road Transport and Highways and Home Minister.

The AM will be supported by a high-level committee (HLC) of officers co-chaired by the secretaries of the department of investment and public asset management (DIPAM) and the ministry of home affairs (MHA).

It would give its recommendations with regard to quantum, price and principles, as well as mechanism for sale of shares.

The government has so far raised Rs 10,028 crore as disinvestment proceeds this fiscal against the target of Rs 80,000 crore.

The 2017 amendment had just made an enabling legislative provision for the disposal of enemy property.

With the approval, now, of the procedure and mechanism for sale of enemy shares an enabling framework has been institutionalized for their sale.
3. JUDICIARY

3.1 Separate High Courts

- Andhra Pradesh and Telangana are set to have separate high courts by January, 2019.
- This is in line with the Supreme Court order issued to the centre to bifurcate the common Hyderabad high court for both the States.
- Notification for this purpose was issued by the President quoting Article 214 of the Constitution, which provides that there shall be a High Court for each State.
- The President was conferred power under the Andhra Pradesh Reorganisation Act, 2014 to constitute separate high court for both States.
- The principal seat of the Andhra Pradesh High Court is Amaravati, the capital of the State.
- The High Court in Hyderabad will function separately as the High Court of the State of Telangana.
- With the creation of the new high court, the country now has 25 high courts.

Common High Courts in India

- Following are the list of High Courts which have jurisdiction over more than 1 State/UT.
  1. Bombay HC - Goa, Dadra and Nager Haveli, Daman and Diu and Maharashtra
  2. Calcutta HC - Andaman & Nicobar Islands and West Bengal
  4. Kerala HC - Lakshadweep and Kerala
  5. Madras HC – Pondicherry and Tamil Nadu
  6. Punjab and Haryana HC – Chandigarh, Punjab and Haryana

3.2 Law Ministry on Judges’ Retirement Age

- In 2010, the Constitution (114th Amendment) Bill, was introduced in the Lok Sabha.
- The Bill sought to increase the retirement age of High Court judges to 65.
- This could not be taken up for consideration in Parliament and lapsed with the dissolution of the 15th Lok Sabha.
- Recently, Parliamentary Standing Committee proposed that rising the retirement age of judges would help retain the existing judges, which in turn would help in reducing both vacancy and pendency of cases in short run.
- The Law Ministry replied that there was no proposal as of now to increase the retirement age of Supreme Court judges from 65 to 67 and of High Court judges from 62 to 65.
- As per the existing memorandum of procedure (MoP), the judge appointment proposal has to be initiated by the Chief Justice of the High Court 6 months before the occurrence of vacancy.
- Within six weeks, the CM/Governor has to recommend on the proposal received from the Chief Justice.
- And within four weeks, the CJI/SC Collegium has to recommend the proposal to the Law Ministry.

3.3 Concerns with Collegium system

SC collegium scrapped its own decision it took previously to appoint two judges and has made fresh appointments.

- The apex court is presently functioning with 26 judges as against the sanctioned strength of 31, leaving five clear vacancies.
- Last month, the Supreme Court had recommended the elevation of Justice Pradeep Nandrajog, the Chief Justice of Rajasthan High Court and Justice Rajendra Menon, the Chief Justice of Delhi High Court.
- However, a new collegium on January 10, which was formed after Justice Madan Lokur retired, decided to elevate Justice Maheshwari and Justice Khanna as SC judges.
- Thus, the collegium revisited its decision made at an earlier meeting.
• The elevation was made questionable, since it was criticised that the elevation has been done ignoring 32 more senior judges.
• The allegation is not merely one concerning the seniority of the two appointees.
• Rather, it is the much graver charge of arbitrarily revoking a decision that was made last month.
• The official reasons are in the public domain in the form of a resolution.
• It claims that even though some decisions were made last month, the required consultations could not be undertaken and completed in view of the winter vacation.
• When the collegium met again this month, its composition had changed following the retirement of Justice Madan B. Lokur.
• Hence, it was decided that it would be appropriate to have a fresh look at the matter, as well as the additional material.
• Also, the collegium made a claim that new material had surfaced on the process which has made the names of the two persons to be left out from the current list.
• However, it is not clear what the material is and how it affected their suitability.
• This lack of clarity shines a spotlight on the opaque collegium system of appointments in the higher judiciary.
• Concerns - It is not clear whether the retirement of one judge shall be a ground to withdraw a considered decision, even if some consultations were incomplete.
• It is now widely accepted that seniority cannot be the sole criterion for elevation to the Supreme Court.
• However, the fact that there are three other judges senior to Justice Khanna in the Delhi High Court itself, two of them serving elsewhere as chief justices, is bound to cause some misgivings.
• Hence, the credibility of the collegium system has once again been called into question.
• Also, the Collegium system is still not accountable to any other authority.

3.4 All India Judicial Service
The NITI Aayog recently mooted the creation of an All India Judicial Service (AIJS).
• Articles 233 and 234 of the Constitution vested all powers of recruitment and appointment (of judicial services of the state) with the State Public Service Commission and High Courts.
• Article 312 of the Constitution allows the Rajya Sabha to pass a resolution, by two-thirds majority, in order to kick-start the process of creating an all India service.
• Once the resolution is passed, Parliament can amend Articles 233 and 234 through a simple law (passed by a simple majority), which will strip States of their appointment powers.
• This is unlike a constitutional amendment under Article 368 that would have required ratification by State legislatures.
• The idea was mooted on the argument that a centralised judicial recruitment process will help the lower judiciary on timely recruitment and clearing vacancies.
• But the Supreme Court recently noted that many States are doing a very efficient job when it comes to recruiting lower court judges.
• In Maharashtra, of the 2,280 sanctioned posts, only 64 were vacant and in West Bengal, only 80 were vacant of the 1,013 sanctioned posts.
• Only in certain States such as Uttar Pradesh, the vacancies stand at 42%.
• Thus the solution is to pressure poorly performing States into performing more efficiently.
• Further, the argument that the centralisation of recruitment processes through the UPSC automatically leads to a more efficient recruitment process is flawed and not a guarantee of a solution.

3.5 Court-Supervised Mediation in Ayodhya Dispute
The Supreme Court ordered a court-supervised mediation to resolve the Ram Janmabhoomi-Babri Masjid land dispute in 8 weeks.
Click [here](#) to know more on the dispute. Click [here](#) to read on Centre’s recent appeal.

- The dispute over the site at Ayodhya has been continuing since 1949.
- A 16th century mosque stood at Ayodhya until it was torn down by Hindutva fanatics in December 1992.
- After the demolition of the Babri Masjid, the President referred the matter to the Supreme Court.
- The court was to look into the question of whether there was a temple to Lord Ram before the mosque was built at the site.
- The court, in a landmark decision in 1994, declined to go into that question.
- However, it revived the title suits to decide on the ownership of the site and, thereby, restored due process and the rule of law.
- The Supreme Court recently took up appeals against the 2010 verdict of the Allahabad High Court which ordered a three-way division of the disputed site.
- Under Section 89 the court can order for a settlement among the parties.
- The court may reformulate the terms of a possible settlement and refer the same for -
  1. arbitration
  2. conciliation
  3. judicial settlement including settlement through Lok Adalat
  4. mediation
- A five-judge constitution bench finally went for mediation and appointed former Supreme Court judge justice (retd) F.M.I. Kalifulla as the chairperson of the panel of mediators.
- The other two members are spiritual guru Sri Sri Ravi Shankar and senior advocate Sriram Panchu.
- The mediation proceedings will be held in-camera in Faizabad which adjoins Ayodhya in Uttar Pradesh.
- To ensure the success of the mediation process, the apex court directed that “utmost confidentiality” be maintained.
- It also barred both print and electronic media from reporting the proceedings.
- Hindu bodies, except the Nirmohi Akhara, have opposed mediation, while Muslim bodies have supported it.

### 3.6 Issues with Judges’ recusal

Judges must give their reasons in writing for recusing themselves from specific cases.

- Recusal is the process of a judge stepping down from presiding over a particular case in which the judge may have a conflict of interest.
- In a recent case, challenging the appointment of M. Nageswara Rao as interim director of the CBI, three judges have recused themselves.
- First Chief Justice Ranjan Gogoi disqualified himself, purportedly because he was set to be a part of the selection committee tasked with choosing a new CBI Director.
- He then assigned a bench presided by Justice A.K. Sikri to hear the case.
- But Justice Sikri too recused, on grounds that he was part of a panel that removed the previous CBI Director Alok Verma from his post.
- Next, Justice N.V. Ramana recused himself for apparently personal reasons.
- However, none of these orders of recusals was made in writing.
- Apart from the CBI case, recently Justice U.U. Lalit recused himself from hearing the dispute over land in Ayodhya.
- This is because the judge had appeared for former Uttarakhand Chief Minister Kalyan Singh in a related contest.
• Hence, the judge expressed his disinclination to participate in the hearing any further.
• Even in this case, there is no written order specifically justifying the recusal.
• Hence, it’s difficult to tell whether the disqualification was really required.

3.7 Deducting Prisoners’ Salary for Victim Compensation
The Delhi High Court recently stayed the practice of deducting salary of prisoners for the victim compensation fund.
• Convicted prisoners get paid for doing work inside the jail.
• Remuneration and wages differ from one state to another.
• As per 2015 prison statistics released by the National Crime Records Bureau (NCRB) in 2017, Puducherry provided the highest wages.
• It gives Rs 180, Rs 160 and Rs 150 per day to skilled convicts, semi-skilled convicts and unskilled convicts respectively.
• This was followed by Delhi’s Tihar, which gave Rs 171, Rs 138 and Rs 107 respectively.
• In 1998, the Supreme Court in State of Gujarat &Anr vs Gujarat High Court case asked all states to devise a mechanism so that victims of the offence could be compensated.
• Prisons in various states made their own rules, with the amount of compensation varying from state to state.
• Delhi Prisons Rules were amended in 2006 with Rule 39A allowing for 25% of prisoners’ wages to be deducted and deposited in a Victim Welfare Fund.
• In 2008, the CrPC was amended with a new Section 357A, which stipulated that every state should prepare a scheme for compensating crime victims and their dependents.
• Accordingly, the state government notified the Delhi Victims’ Compensation Scheme.
• Yet the deduction of 25% of prisoners’ wages continues to be the practice in Delhi.

3.8 Witness Protection Scheme, 2018
The Supreme Court has approved India’s first Witness Protection Scheme.
• The scheme was drawn up by
  i. the central government with inputs from 8 states/Union Territories
  ii. legal services authorities of five states
  iii. open sources including civil society, three high courts as well as from police personnel
• The scheme was finalised in consultation with the National Legal Services Authority (NALSA).
• **Features** - The important features include identifying categories of threat perceptions and preparation of a ‘Threat Analysis Report’ by the head of the police.
• Besides, other protective measures include -
  i. ensuring that the witness and accused do not come face to face during probe
  ii. protection of identity
  iii. change of identity
  iv. relocation of witness
  v. witnesses to be apprised of the scheme
  vi. confidentiality and preservation of records
  vii. recovery of expenses, etc
• Other features include in-camera trial, proximate physical protection and anonymising of testimony and references to witnesses in the records.
• **Threat perception** - The programme identifies “three categories of witnesses as per threat perception” as follows:
**Procedure** - The application for protection will have to be filed before the “Competent Authority” along with supporting documents.

The Authority will in turn seek a “Threat Analysis Report” from the ACP/DCP in charge of the police station.

The Authority will be required to dispose an application within five days from the date of receipt of Threat Analysis Report.

In its report, the police officer must categorise the threat perception and suggest protective measures.

The Authority shall interact with the witness and other relevant persons (in person or through electronic means).

The Witness Protection Order passed by the Competent Authority shall be implemented by the Witness Protection Cell of the state or UT.

The “overall responsibility” for implementing the order lies with the head of the police of the state and Union Territory.

If the order is for change of identity or relocation, it shall be implemented by the Home department concerned.

The Witness Protection Cell will file a monthly follow-up report to the Authority.

It also empowers the Authority to call for a fresh Threat Analysis Report if it feels the need to revise its order.

**Fund** - The expenses for the programme will be met from a Witness Protection Fund to be established by the states and UTs.

They should make annual budgetary allocation for the fund which will also be free to accept donations.

### 3.9 SC Verdict on Rafale Deal

The Supreme Court recently gave its verdict on the Rafale aircraft acquisition deal. Click [here](#) to know more

- The controversy is triggered by a media interview of former French President and press coverage alleging “favouritism” by the Modi government.
- But individual perceptions cannot be the basis of a roving judicial review and so the Court declined to intervene.
- It said it cannot sit as an appellate authority over each and every aspect of the deal.
- It refused to employ its judicial review powers to intervene in the deal's decision-making process, pricing and the choice of Indian Offset Partner (IOP).
- It agreed with government that judicial review is limited in matters of defence procurements, Inter-Governmental Agreements (IGAs) that may be vital to national security.
- The judgment came on a batch of petitions for an independent court-monitored CBI/SIT investigation into the deal.
- There was no occasion to doubt the decision-making process which led to the IGA between the French and Indian governments.
- "Minor variations" in the decision-making process should not lead to the setting aside of the contract itself.
- The court, however, restrained itself from delving deeper into the issue.
- The Court said it could not use the mechanism of judicial review to compare the prices of aircraft between the old and the new deal.
- But the judgment repeated the government’s claim that the contract was of "financial advantage to the nation".
- In all, the Court held that there was no substance to the allegation that the government showed any "commercial favouritism”.
- It's because it acknowledged the government stand that the choice of IOP was not in its realm; the vendor, Dassault Aviation, chooses its own IOP.

**Official Secrets Act - Rafale Deal Case**

*With debate over 'stolen documents' in Rafale case, it is imperative to understand the Official Secrets Act (OSA).*
• The secrecy law broadly deals with two aspects:
  1. spying or espionage, which is dealt with in Section 3 of the Act
  2. disclosure of other secret information of the government, which is dealt with in Section 5
• The secret information can be any official code, password, sketch, plan, model, article, note, document or information.
• Under Section 5, both the person communicating the information, and the person receiving the information, can be punished by the prosecuting agency.

3.10 Report on Death Penalty in India

No of death sentences awarded by trial courts saw a sharp rise in 2018, as per a report on death penalty in India.

• The report was prepared by the National Law University, Delhi.
• The 162 death sentences by trial courts in 2018 are the highest in a calendar year since 2000.
• In 2017, capital punishment was accorded to 108 persons.
• No death sentences were pronounced in 8 states - Arunachal Pradesh, Goa, J&K, Meghalaya, Mizoram, Nagaland, Sikkim, and Tripura.
• SC commuted death sentences to life imprisonment in 11 of the 12 cases it heard.
• It upheld the sentence for 3 persons convicted in the December 16 Delhi gangrape case.
• The number of people on death row in India as of December 2018 stands at 426.
• The increase in the number of death sentences could be the result of the recent legislative intervention.
• It extended capital punishment to non-homicide crimes (homicide - murder).
• The Parliament amended IPC to provide for death as a possible punishment in cases of rape and gangrape of girls below the age of 12.

3.11 Issues with Teachers’ quota in Universities

SC recently dismissed a Special Leave Petition filed by the HRD against a 2017 order of Allahabad High Court.

• The matter of Vivekanand Tiwari & Anr v Union of India and Ors dealt with the recruitment of teachers in Banaras Hindu University (BHU), a central educational institution.
• The petitioners sought cancellation of the then recruitment drive in the University.
• They demanded a fresh beginning, treating each department as a unit for calculating the number of faculty posts reserved for SCs, STs and OBCs.
• At that time, as mandated by the University Grants Commission (UGC), the number of SC, ST, and OBC faculty positions were calculated by treating the university as a “unit”.
• All posts of the same grade across departments in a university were grouped together to calculate the quota.
• The High court upheld the plea and criticised the UGC for applying reservation in teaching jobs in a “blanket manner”.
• It clarified that if the University is taken as a ‘Unit’, it could result in some departments/subjects having all reserved candidates and some having only unreserved candidates which would be discriminatory and unreasonable and is violative of Article 14 & 16.
• The Allahabad HC decision was upheld by the Supreme Court in June 2017.
• Subsequently, the UGC recommended to the HRD Ministry that the High Court’s verdict should be applied to all universities.
• The amended Section 6(c) now says that in case of reservation for SC/ST, all the Universities shall prepare the roster system keeping the department/subject as a unit for all levels of teachers as applicable.
• The amended Section 8(a)(v) says that the roster shall be applied to the total number of posts in each of the categories [e.g., Professor, Associate Professor, Assistant Professor] within the department/subject.

• However, there was widespread controversy following the order of the UGC.

• Hence, the HRD Ministry moved a Special Leave Petition before the Supreme Court last year, challenging the Allahabad HC order.

Reason for Government’s move

• Since the UGC order of March 2018, of the 766 vacancies advertised by 11 central universities, only 2.5% posts were for SCs, and none for STs.

• A projection was presented by Banaras Hindu University to the HRD Ministry to show how the new formula would have impacted.

• It showed that the posts reserved for SCs would be reduced by half, those for STs by almost 80%, and those for OBC teachers by 30%.

3.12 SC on Minorities

The Supreme Court asked the National Commission for Minorities (NCM) to take a decision on a plea seeking to form guidelines for defining the term “minority” and lay down guidelines for its identification State-wise.

• The Constitution does not define the word “Minority” but used it exclusively in the Articles 29 & 30 and Article 350.

• National Commission for Minorities Act – Under the act, six communities are declared as minority communities in the country - Muslims, Christians, Sikhs, Buddhists, Zoroastrians (Parsis) and Jains.

• In responding to PIL filed to define minority and framing parameters for identification of minority of state wise, SC has asked NCM to to take a decision on this plea.

• The petitioner alleged that classification of religious minorities at pan-India level has only created a wave of inequality across different States.

• The plea also said that the Christians are majority in Mizoram, Meghalaya and Nagaland and there is significant population in Arunachal, Goa, Kerala, Manipur, Tamil Nadu and West Bengal but they are treated as Minority.

• Likewise, Sikhs are majority in Punjab and there is significant population in Delhi, Chandigarh and Haryana but they are treated as minorit

• It also encouraged those who did not belong to those minority religion, to convert themselves for the social, political and economic benefits.

• Supreme Court’s Direction – Earlier, In TMA Pai Foundation Vs State of Karnataka case, SC has held that the position that the minority status of a community is to be decided with reference to the State population and not taking into consideration the population of the Country as a whole.

4. CONSTITUTIONAL & NON-CONSTITUTIONAL BODIES

4.1 Lokpal & Lokayuktas

Former Supreme Court judge Justice Pinaki Chandra Ghose was finalised by a selection panel as the first head of the Lokpal. The first head has been selected 5 years after the President had given assent to the Lokpal and Lokayuktas Act, 2013.

• A Lokpal is an anti-corruption authority or body of ombudsmen who represents the public interest in India.

• The concept of an ombudsman is borrowed from Sweden.
• The Lokpal has jurisdiction over central government to inquire into allegations of corruption against its public functionaries and for matters connected to corruption.

• It is responsible for enquiring into corruption charges at the national level while the Lokayukta performs the same function at the state level.

Appointment of Lokpal Chairman and Committee

• **Eligibility** - A person “Who is or has been a Chief Justice of India, is or has been a Judge of the Supreme Court (or)

• An eminent person of impeccable integrity and outstanding ability having special knowledge and expertise of not less than 25 years in the matters relating to anti-corruption policy, public administration, vigilance, finance including insurance and banking, law and management”.

• **Composition** - Under the 2013 Act, the Lokpal should consist of a chairperson and such number of members, not exceeding eight, of whom 50% should be judicial members.

• The selection procedure for these posts is the same as that for the chairperson.

• The Act states that not less than 50% of the members of the Lokpal should be from among persons belonging to the SCs, the STs, OBCs, minorities and women.(The same rules apply members of the search committee)

• **Appointment** - A search committee will prepare a panel of candidates, a selection committee will recommend names from among this panel, and the President will appoint these as members.

• Salaries, allowances and service conditions of the Lokpal chairperson will be the same as those for the Chief Justice of India and those for other members will be the same as those for a judge of the Supreme Court.

• After the selection of members, the Lokpal will set about creating its various wings.

• It will have an Inquiry Wing, headed by the Director of Inquiry.

• This conducts preliminary inquiry into any offence allegedly committed by a public servant punishable under the Prevention of Corruption Act, 1988.

• It will also have a “Prosecution Wing, headed by the Director of Prosecution.

• This is to prosecute public servants in relation to any complaint by the Lokpal under this Act.

• So once the members are appointed, the process for more appointments will start.

• These may include that for Secretary, Director of Inquiry and Director of Prosecution and other officers and staff of the Lokpal.

• **Coverage** - The Act covers a wide range of public servants with various rules for each.

• These ranges from the Prime Minister, ministers and MPs, to groups A, B, C and D employees of the central government.

• It shall apply to public servants in and outside India.

• The Act also includes the Lokpal’s own members under the definition of “public servant”.

• The Chairperson, Members, officers and other employees of the Lokpal, while functioning under the provisions of the Act, shall be deemed to be public servants.

• A complaint under this Act shall only relate to a period during which the public servant was holding or serving in that capacity.

• **Inquiry** - The Lokpal may, after receiving a complaint against any public servant, order a preliminary inquiry which has to be completed within 90 days.

• After receiving the report of the preliminary inquiry, the Lokpal may order an investigation by any agency or departmental proceedings.

• S/he may also take any other appropriate action by the competent authority, or it can order closure of the proceedings.

Lokayuktas

• Every State shall establish a body to be known as the Lokayukta for the State, if not so established, constituted, by a law made by the State Legislature.
• If not established, they have to be established within one year from the date of the commencement of the Act.
• This is as per Section 63 of the Lokpal and Lokayuktas Act.
• The establishment of Lokayukta and any appointment falls within the domain of the States.
• Most states, however, are without a Lokayukta even after the 2013 Act.
• The Supreme Court recently directed these states to take steps for appointment of Lokayukta.

4.2 Development and Welfare Board for De-notified, Nomadic and Semi-Nomadic Communities
• Union Cabinet has recently given its approval for constitution of Development and Welfare Board for Denotified, Nomadic and Semi-nomadic Communities (DNCs).
• The Government in July 2014 had constituted National Commission for Denotified, Nomadic and Semi-Nomadic Tribes (NCDNT) for a period of 3 years to prepare a State-wise list of castes belonging to Denotified and Nomadic Tribes.
• The commission was also asked to suggest appropriate measures in respect of Denotified and Nomadic Tribes that may be undertaken by the Central Government or the State Government.
• The Commission recommended for the setting of up a Permanent Commission for these communities.
• The Government has therefore decided to set up a Development and Welfare Board under the Societies Registration Act, 1860 under the aegis of Ministry of Social Justice and Empowerment.
• The board will focus on implementing development and welfare programmes for Denotified, Nomadic and Semi-nomadic Communities.
• While most DNTs are spread across the Scheduled Castes (SC), Scheduled Tribes (ST) and Other Backward Classes (OBC) categories, some DNTs are not covered in any of the SC, ST or OBC categories.

4.3 Central Information Commission
• The government has appointed Sudhir Bhargava as the new Chief Information Commissioner.
• The Commission has been constituted under the Right to Information Act, 2005.
• The jurisdiction of the Commission extends over all Central Public Authorities.
• It is the highest appellate body under the Right to Information Act.
• The Commission includes 1 Chief Information Commissioner (CIC) and not more than 10 Information Commissioners (IC) who are appointed by the President of India.
• Section 12(3) of the RTI Act 2005 provides for search committee to appoint CIC and IC which includes,
  i. The Prime Minister, who shall be the Chairperson of the committee;
  ii. The Leader of Opposition in the Lok Sabha ; and
  iii. A Union Cabinet Minister to be nominated by the Prime Minister.
• CIC and other ICs shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment.
• Every IC shall on vacating his office be eligible for appointment as the CIC, provided that the term of office shall not extend 5 years in aggregate.
• The salaries and allowances payable to and other terms and conditions of service of the CIC and IC shall be the same as that of the Chief Election Commissioner and Election Commissioner respectively.
• The decisions of the Commission are final and binding.
• Recent Developments – The Supreme Court has recently took note of the existing vacancies in CIC and SICs and directed authorities to fill them up within six months.
• It also held that the appointment process for CIC should be on the same terms as in the process of a Chief Election Commissioner (CEC).
• Article 324(2)of Constitution states that the President shall, with aid and advice of Council of Ministers, appoint CEC and ECs, till Parliament enacts a law fixing the criteria for selection, conditions of service and tenure.
• But a law has not been enacted for the purpose so far.
• Conventionally, the senior-most election commissioner as chief election commissioner.

4.4 PM-STIAC
• Prime Minister’s Science, Technology and Innovation Advisory Council (PM-STIAC) is a 21-member panel.
• Scientific Advisory Committees (SAC) - Cabinet and SAC-PM are dissolved and replaced by PM-STIAC.
• It will advise the Prime Minister on all matters related to S&T, innovation and monitor the implementation of PM’s vision on the same.
• It is expected to act as a high-level advisory body to several ministries and execute mission-oriented programmes.
• It will be chaired by the government’s Principal Scientific Advisor.
• Secretaries of various scientific ministries such as education, environment and health would be ‘special invitees’ to the council meetings.

5. ELECTIONS
5.1 Usage of VVPATs in Elections
The Election Commission has recently announced that there will be 100% use of VVPATs during the upcoming Lok Sabha elections.
• Voter verifiable paper audit trial (VVPAT) is an independent system attached to an EVM that allows the voters to verify that their votes are cast as intended.
• When a vote is cast, a slip is printed on the VVPAT printer containing the serial number, name and symbol of the candidate voted.
• This remains visible to you through a transparent window for seven seconds.
• Thereafter, this printed slip automatically gets cut and falls into a sealed drop box.
• If there is a need, these printouts can later be counted.
• In the world’s largest democracy, every vote counts and the EVMs and VVPATs try and ensure that the massive election process is in tune with the latest technological advancements.
• The Election Commission has never doubted the workings of EVMs and their utility in a free and fair electoral process.
However, VVPATs add another layer of transparency and reliability to convince voters about the sanctity of EVMs.

EVMs and VVPATs also quicken the election process as counting votes on EVMs takes much lesser time than counting paper ballots.

The EVMs and VVPATs are also environment-friendly as they use very little paper compared to paper ballots.

5.2 Voting options in India

In India a voter can exercise his/her franchise only by personally visiting the polling booth.

Apart from this there are two more options:

Postal ballots - In which a voter exercises his/her franchise through post is available only for people on election duty, armed forces personnel, and electors subject to preventive detention.

Proxy voting - The option of proxy voting is available only for armed forces, police, and government officials posted outside India.

The person can authorize another residing in the same polling booth area to cast a vote on his/her behalf.

This option is currently available for wives of the above-mentioned personnel, but not for the husbands.

Overseas voter - A non-resident Indian, who holds an Indian passport, can vote in his/her hometown after registering as an Overseas Voter.

The NRI must fill the Form 6A, which can be downloaded online or taken from the nearest Indian Mission.

Once the person returns to India, they will have to re-register themselves as a general voter and obtain an EPIC card.

Note - The Representation of the People (Amendment) Bill 2017 that extends the proxy voting to NRIs was passed in the Lok Sabha during 2018, but didn't see the light in Rajya Sabha and hence got lapsed.

5.3 Poll Symbols

AamAadmi Party moved the Delhi High Court, seeking to restrain another party named AapkiApni Party from using the battery torch symbol.

It is because the battery torch, with rays of light on top, is similar to AAP's broom symbol.

This along with the similar name is likely to confuse voters.

The Election Commission has two lists of symbols namely reserved and free.

Reserved symbols are allotted to candidates sponsored by recognized state or national parties.

Similarly a list of free symbols is prepared by ECI for independent candidates or those from unrecognized parties.

These candidates have to choose three symbols from the list at the time of submission of nomination papers.

One of the three will be allocated to him.

Any choice other than from the list will be summarily rejected.

Two or more recognized political parties can have the same symbol provided they are not contenders in the same State or Union Territory.

5.4 Model Code of Conduct for Elections

With general elections approaching, here is a look on the Model Code of Conduct (MCC) that the Election Commission of India enforces

MCC is a document from the Election Commission of India.

It lays down the minimum standards of behaviour for political parties and their candidates contesting elections.

The MCC comes into effect as soon as the EC announces the election schedule.

The MCC was first proposed by Kerala in its 1960 assembly elections.

It was later adopted by the Election Commission of India (EC) during mid-term elections in 1968 and 1969.
• It has since been updated many times based on cases fought in courts.

• In 2013, the Supreme Court directed the Election Commission to include guidelines regarding election manifestos, which it had included in the MCC for the 2014 general elections.

• The Code has evolved over the years to include behaviour norms for the party in power and the public servants who report to it.

• The MCC lays down good behaviour norms including

  • Under ‘general conduct’, the Code mainly regulates the candidates who -
    i. incite communal tensions
    ii. use caste or religion to appeal for votes
    iii. canvass within 100 metres of polling stations and in the 48 hours preceding the polls

• For meetings and processions, parties are required to obtain advance permissions from local authorities and seek police help to contain unruly elements.

• Effigy burning is expressly prohibited.

• On the day of election, political parties are expected to -
  i. identify their party workers with badges
  ii. stay off the polling booths
  iii. keep their camps near the booths free of propaganda material
  iv. refrain from distributing goodies or liquor to voters

• Election manifestos of political parties should not contain any unreasonable and impractical promises.

• EC directs parties to stick only to those promises that are financially feasible.

• Ruling party - There are elaborate rules to ensure that the party in power plays fair and the Code has the longest list of don’ts for the ruling party.

  • The Code ensures that the -
    i. party in power does not gain an unfair advantage in campaigning
    ii. ministers are barred from mixing their official visits with political rallies
    iii. ruling party does not use government vehicles, aircraft or machinery
    iv. ruling party does not issue public advertisements promoting the party or its leaders at the cost of the exchequer

• The party in power is also directed not to ‘monopolise’ public places or government rest houses and bungalows for political rallies.

• Once elections are announced, ministers cannot announce financial grants or large projects or make ad-hoc government appointments in a way that could influence voter behaviour.

• Legality - The Model Code of Conduct does not have any statutory backing.

• But the Code has come to acquire significance in the past decade, because of its strict enforcement by the EC.

• Some of the more serious offences listed in the Code have also found their way into the statute books.

• So, for some of the offences mentioned, candidates can be tried under the Indian Penal Code or the Representation of the People Act 1951.

### 5.5 Changes to Form 26

The Law Ministry recently amended Form 26 to make election candidates more accountable, after the Election Commission of India wrote to the Ministry.

• A candidate in an election is required to file an affidavit called Form 26.

• It furnishes information on candidate’s assets, liabilities, educational qualifications, criminal antecedents (convictions and all pending cases) and public dues, if any.
• The affidavit has to be filed along with the nomination papers.
• It should be sworn before an Oath Commissioner or Magistrate of the First Class or before a Notary Public.
• Earlier, an election candidate had to only declare the last I-T return (for self, spouse and dependents).
• The recent changes make it mandatory for candidates to reveal their income-tax returns of the last 5 years (for self, spouse and dependents).
• Also they now have to furnish details of their offshore assets, which were not sought earlier.
• This means “details of all deposits or investments in foreign banks and any other body or institution abroad and details of all assets and liabilities in foreign countries”.
• The objective behind introducing Form 26 was that it would help voters make an informed decision.
• The affidavit would make them aware of the criminal activities of a candidate.
• This could help prevent people with questionable backgrounds from being elected to an Assembly or Parliament.
• With the recent amendment, voters will know the extent to which a serving MP’s income grew during his/her 5 years in power.

5.6 NOTA

• The Haryana Election Commission has decided to treat NOTA option as a “fictional candidate” in municipal polls, making it a must for winning candidates to secure more votes than those cast for NOTA.
• If in the election, all the contesting candidates individually receive less votes than those cast for the fictional candidate, NOTA, none of the candidates will be declared elected. The polls will be cancelled and held afresh.
• NOTA will be treated as a fictional electoral candidate for the first time in the electoral history of the country.
• The candidates securing lesser votes than NOTA would not be eligible to file nominations for fresh polls to be held later.
• If a contesting candidate and the NOTA both receive equal valid votes, the candidate, and not the fictional candidate, shall be declared elected.
• Earlier, Maharashtra State Election Commission (SEC) has held that if NOTA option receives the maximum votes in a constituency, then none of the contesting candidates will be declared the winner and fresh elections will be held.
• The order is applicable to all panchayats and municipalities in the state.
• Maharashtra SEC order is perhaps the first time that the option was being introduced anywhere in the country.
• Following Maharashtra’s suit, Haryana also declared NOTA as a fictional candidate.
• While the Election Commission of India is responsible for conducting elections to the Parliament and state Assemblies, state election commissions conduct the elections to rural and urban local bodies in each state.
• The 2013 Supreme Court judgement that mandated the use of NOTA had given directions only to the Election Commission of India, and hence the use of NOTA in local body elections has been inconsistent.

NOTA

• None of the above (NOTA) is a ballot option designed to allow the voter to indicate disapproval of all of the candidates in a voting system.
• The idea behind the use of NOTA is to allow the voter to register a “protest” vote if none of the candidates is acceptable to her for whatever reason.
• In Lok Sabha and State Assembly elections, the candidate with the highest number of votes polled is declared elected irrespective of the NOTA total.
• The Supreme Court has scrapped the use of NOTA in Rajya Sabha elections.
• SC held that NOTA is meant only for universal adult suffrage and direct elections and not polls held by the system of proportional representation by means of the single transferable vote as done in the Rajya Sabha.
5.7 **Scraping Educational Qualification**

*Rajasthan recently abolished the condition of a minimum educational qualification to contest local body elections.*

- The Rajasthan Panchayati Raj (amendment) Bill, 2015, made Class X mandatory for contesting municipal elections and for contesting zila parishad or panchayat samiti elections.
- To contest the sarpanch elections, an aspirant from the general category must have passed Class VIII and a SC/ST aspirant must have passed Class V.
- It has also made a functional toilet mandatory in the house of a contestant.
- By this, Rajasthan became the first State in the country to fix a minimum educational qualification for contesting elections to the Panchayati Raj Institutions.
- The amendment was made based on the assumption that its voters tended to be younger.
- It, however, penalised the people for failure to meet certain social indicators, when it is the state’s responsibility to provide the infrastructure and incentives for school and adult education.
- It has defeated the very purpose of the panchayati raj institutions, to include citizens in multi-tier local governance from all sections of society.
- Also, there was no justification for insisting on educational qualification at the grassroots level when there was no such condition for elections to State Assemblies and Parliament.
- Hence, the Rajasthan government recently abolished the provisions on educational qualifications, since laws should not become hurdles for the masses to exercise their rights.

**INTERNATIONAL RELATIONS**

6. **INDIA & ITS NEIGHBORHOOD**

6.1 **Pulwama Terror Attack on CRPF**

*Nearly 40 security personnel were killed in a terror attack on a CRPF (Central Reserve Police Force) convoy in Awantipora town of Pulwama district, Jammu and Kashmir.*

- The basic role of CRPF is maintenance of law and order, conducting operations based on intelligence, and providing law and order support to Army operations.
- After an operation has been concluded, it is the job of the CRPF to manage angry, stone-pelting crowds.
- CRPF also deals with Left Wing Extremism and does overall co-ordination of large scale security arrangement especially with regard to elections in disturbed areas.
- It is also tasked with guarding vital Central Government installations such as Airport, Powerhouses, Bridges, DoordarshanKendras, AIR Stations, Governors' and CMs' residence, Nationalised Banks, etc.
- Before 2005, the job of providing law and order support was with the BSF (Border Security Force) which is now tasked only with border-guarding duty.
- The CRPF is the biggest paramilitary force present in the Kashmir Valley.
- More than 60,000 CRPF personnel are deployed across the state.

6.2 **Withdrawal of MFN Status to Pakistan**

*India has withdrawn the Most Favoured Nation (MNF) status accorded to Pakistan.*

- The MFN status offers preferential trade terms with respect to tariffs and trade barriers.
- It is a provision under the World Trade Organisation (WTO) which requires every member country to accord MFN status to all other member countries.
- Though the term suggests special treatment, in the WTO it actually means non-discrimination/treating virtually everyone equally.
- As, under WTO rules, a member country cannot discriminate between its trade partners.
• India accorded MFN status to all WTO member countries including Pakistan in 1996, a year after the formation of WTO.
• However, Pakistan is yet to transition fully to MFN status for India.
• It maintains a Negative List of 1,209 products that are not allowed to be imported from India.
• In addition, Pakistan permits only 138 products to be imported from India through Wagah/Attari border land route.
• Instead of MFN, Pakistan came up with a dissimilar but globally popular Non-Discriminatory Market Access (NDMA) agreement.
• The reason Pakistan has chosen to adopt the NDMA with India is the political mistrust and a history of border conflicts.
• Despite domestic demands at various instances for withdrawal of MFN status to Pakistan, India has not done it before.

6.3 Shift in India’s Indus Waters Policy

Following the terror attack in Pulwama, the government has decided to stop India’s share of waters in the Indus river system from flowing into Pakistan.

• The Indus Waters Treaty of 1960 governs Indus water sharing between India and Pakistan.
• The Treaty gives India full control over the waters of the three Eastern rivers - Beas, Ravi and Sutlej.
• The waters of the Western rivers - Indus, Jhelum and Chenab - flow “unrestricted” to Pakistan.
• India is allowed to make some use of the waters of the Western rivers too under the provisions spelt out in the Treaty.
• This includes use of water for purposes of navigation, power production and irrigation.
• The two countries have permanent Indus Water Commissions that meet regularly, to share information and data, and resolve disputes.
• **India** - Historically, India has not been utilising its full claims, neither on the Eastern nor on the Western rivers.
• On the Western rivers specifically, there has been no strong demand for creation of new infrastructure, either for hydroelectricity or irrigation.
• This is because the demand for irrigation has gone down over the years as many farmers in J&K moved to horticulture, from traditional crops.
• So, in effect, India has been letting much more water flow to Pakistan than has been committed under the Treaty.
• **Pakistan** - With India’s under-utilisation of its share, Pakistan has benefited more than it is entitled to under the Treaty.
• More than 95% of Pakistan’s irrigation infrastructure is in the Indus basin - about 15 million hectares of land.
• It has now become the world’s largest contiguous irrigation system, comprising over 60,000 km of canals.
• Three of Pakistan’s biggest dams, including Mangla, which is one of the largest in the world, are built on the Jhelum river.
• These dams produce a substantial proportion of Pakistan’s electricity.
• After the devastating floods of 2014, the need for storage infrastructure as a flood-control measure was increasingly felt.
• But more seriously, a policy shift had happened in 2016, following the terrorist attack on Army camp in Uri.
• India had temporarily suspended regular meetings of the Indus Commissioners of the two countries after the attack.
• India decided to change the status quo and use more waters of the Indus rivers, which was also a measure to hurt Pakistan’s interests.
• India took up the task of revival of several projects that were either suspended or had remained on paper for several years.

• Many of these projects were in Jammu and Kashmir; others were in Punjab and Himachal Pradesh.

• Some of these projects were put on fast-track mode, declared national projects, and money was sanctioned to resume works.

• The notable ones are:
  
  i. 800MW Bursar hydroelectric project on the Marusudar river, one of the tributaries of the Chenab, in Kishtwar, J&K
  
  ii. Shahpur-Kandi project in Gurdaspur, Punjab
  
  iii. 1,856-MW Sawalkot project on the Chenab in Jammu and Kashmir
  
  iv. Ujh project in Jammu and Kashmir

• Bursar will be India’s first project on the Western rivers to have storage infrastructure.

• In all, more than 30 projects are under various stages of implementation on the Western rivers, having got the final approvals.

• Besides these, other measures included -
  
  i. finalisation of a revised detailed project report
  
  ii. granting of prompt environmental clearance
  
  iii. disbursals for attractive rehabilitation packages for affected families

6.4 FATF Advisory on Pakistan

Financial Action Task Force recently decided to continue the ‘Grey’ listing of Pakistan for its failure to stop funding of terrorist groups.

• The Financial Action Task Force (FATF) was set up in 1989 by the western G7 countries, with headquarters in Paris.

• 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.

• In June 2018, Pakistan was placed in the ‘Grey’ list and given a 27-point action plan by the FATF.

• This Plan was reviewed as the last Plenary in October 2018 and for the second time recently.

• In the recent plenary, India submitted new information about Pakistan-based terrorist groups, including Jaish-e-Mohammad, responsible for the Pulwama attack.

• The FATF condemned the suicide bombing of the CRPF convoy that left 40 personnel dead.

• The FATF urged Pakistan to show compliance to show compliance with its action plan or face being “black-listed” by the session in October 2019.
• A black-list would mean enhanced financial scrutiny of its government, possible sanctions against its central bank, and a downgrade of its financial and credit institutions.

• Also, FATF issued a 10-point advisory to Pakistan if it wants to be out of the “grey list” of countries posing a “risk to the international system”.

• Further, Pakistan was nominated for a detailed review of its "serious deficiencies” in countering terror financing in February 2018.

• This nomination was supported by the United States, the United Kingdom, France, Germany and India.

6.5 Gilgit-Baltistan issue

**Supreme Court of Pakistan that brought the region of Gilgit-Baltistan within its ambit. India protested against this recent order and said that the region would remain integral part of India.**

• Gilgit Baltistan is one of the two parts of Pakistan Occupied Kashmir (PoK).

• The other one is “Azad Jammu and Kashmir” (AJK) and both formed part of the territory of the erstwhile princely state of Jammu and Kashmir (J&K).

• The territory was handed over to the newly created state of Pakistan in November 1947 by the action of a British officer of the Gilgit Scouts.

• Despite being in the service of the Maharaja of Kashmir, he revolted and joined Pakistan.

• GB has an area of 72,000 sq. km and comprises about 85% of the total area of PoK.

• It is a strategic location i.e. provides land access to China, contains vast reservoirs of fresh water and the China-Pakistan Economic Corridor (CPEC) passes through it.

• Despite this, GB does not form part of the territory of Pakistan.

• **Recent development** - There are many impediments in the way of making GB the fifth province of Pakistan.

• The four provinces of Pakistan are Khyber Pakhtunkhwa Province (KPK), Punjab, Sindh and Balochistan.

• Two UN resolutions of 1948 and 1949 clearly established a link between GB and the Kashmir issue. It mentioned that "pending a final solution, territory evacuated by the Pakistan troops will be administered by the local authorities.

• Making GB its fifth province would thus violate these UN resolutions that would damage its position on the Kashmir issue.

• That would also be violative of the 1963 Pak-China Boundary Agreement that calls for the sovereign authority to reopen negotiations with China after the settlement of the Kashmir dispute between Pakistan and India.

• It is also violative of the 1972 Shimla Agreement that mentions that “neither side shall unilaterally alter the situation”.

• Pakistan would also have to overcome the adverse reaction of Kashmiris on both sides of the LoC.

6.6 Capture of IAF Officer

**Indian Air Force pilot, Wing Commander Abhinandan Varthaman, was captured by Pakistan after a major aerial confrontation. Thus, it is important to understand the Geneva Convention on treatment of prisoners of war (PoWs).**

• On capture of IAF pilot, various amateur videos were on circulation in which Wing Commander Abhinandan was seen being manhandled by a crowd in Pk.

• India strongly objected to Pakistan’s vulgar display of an injured personnel, in violation of norms of International Humanitarian Law and the Geneva Conventions.
Geneva Conventions

- The 1949 Geneva Conventions are a set of international treaties - four conventions, with three protocols added on since 1949.
- The conventions ensure that warring parties conduct themselves in a humane way with:
  i. non-combatants such as civilians and medical personnel
  ii. combatants no longer actively engaged in fighting, such as prisoners of war, and wounded or sick soldiers
- PoWs are usually members of the armed forces of one of the parties to a conflict who fall into the hands of the adverse party.
- Article 3 of the Geneva Convention on Treatment of PoWs deals with every kind of situation that may arise for a captive and captor.
- All countries are signatories to the Geneva Conventions.
- **Authority** - The Geneva Conventions have a system of “Protecting Powers” who ensure that the provisions are being followed by the parties.
- In theory, each side must designate states that are not party to the conflict as their “Protecting Powers”.
- In practice, the International Committee of the Red Cross (ICRC) has been mandated under the conventions to ensure the application of the law.
- ICRC visits prisoners, both military and civilian.
- **Present conflict** - Both India and Pakistan have been careful not to term the confrontation a war.
- India has specifically said that its airstrikes were a “non-military” intelligence-led operation.
- Nevertheless, both sides are bound by the Geneva Conventions.
- As, the provisions of the conventions apply at the following times:
  i. in peacetime situations
  ii. in declared wars
  iii. in conflicts that are not recognised as war by one or more of the parties
- This means the IAF officer is a prisoner of war, and his treatment has to be in accordance with the provisions for PoWs under the Geneva Conventions.

Prohibition under the convention

- According to the provisions, the nations should avoid the following acts:
  i. Violence to life and person, in particular, murder of all kinds, mutilation, cruel treatment and torture
  ii. taking of hostages
  iii. outrages upon personal dignity, in particular, humiliating and degrading treatment
  iv. the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court
- Any unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war is prohibited.
- It will be regarded as a serious breach of the present Convention.
- Particularly, physical mutilation or medical/scientific experiments which are not justified medically and not in PoW's interest are prohibited.
- Likewise, PoWs must at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity.
- Any acts of vengeance against prisoners of war are prohibited as per Article 13 of the Convention.
- The responsibility for the "humane" treatment of PoWs lies with the detaining power, and not just the individuals who captured the PoW.
Rights of PoW

- Article 14 of the Convention lays down that PoWs are entitled to, in all circumstances, respect for their persons and their honour.
- In captivity, a PoW must not be forced to provide information of any kind under physical or mental torture, or any other form of coercion.
- Refusal to answer questions should not invite punishment.
- A PoW must be protected from exposure to fighting.
- Use of PoWs as hostages or human shields is prohibited.
- A PoW has to be given the same access to safety and evacuation facilities as those affiliated to the detaining power.
- Access to health facilities, prayer, recreation and exercise are also written in the Convention.
- The detaining power has to facilitate correspondence between the PoW and his family, and must ensure that this is done without delays.
- A PoW is also entitled to receive books or care packages from the outside world.

What about the release of prisoners?

- Parties to the conflict “are bound to send back” or repatriate PoWs, regardless of rank, who are seriously wounded or sick, after having cared for them until they are fit to travel.
- The conflicting parties are expected to write into any agreement they may reach to end hostilities and for the expeditious return of PoWs.
- Parties to the conflict can also arrive at special arrangements for the improvement of the conditions of internment of PoWs, or for their release and repatriation.
- E.g. at the end of the 1971 war, India had more than 80,000 Pakistani troops who had surrendered to the Indian Army after the liberation of Dhaka.
- India agreed to release them under the Shimla Agreement of 1972.
- During the Kargil War, after intense diplomatic efforts, Pakistan returned Flight Lieutenant Nachiketa, who was captured after ejecting from his burning Mi27.
- In the present case, Pakistan can decide to send Wing Commander Abhinandan unilaterally, or negotiate his release with India.

6.7 India-Maldives Relations

The President of Maldives made a three-day visit to India recently.

- The two countries reiterated their strong commitment to further strengthening and reinvigorating the traditionally strong and friendly relations between them.
- They have also reiterated their commitment to democracy, development and peaceful co-existence.
- Aligning policies - ‘India-First’ Policy has been re-affirmed by Maldives, thus committing to working together closely with India.
- India has announced a financial assistance package of $1.4 billion for the Maldives in the form of budgetary support, currency swap agreements and concessional lines of credit under its ‘Neighbourhood-First’ Policy.
- Maritime co-operation - Both sides agreed to strengthen cooperation to enhance maritime security in IOR through coordinated patrolling and aerial surveillance, exchange of information and capacity building.
- Terrorism – Both sides reaffirmed their support for increased cooperation in combating terrorism in all its forms and manifestations both within the region and elsewhere.
- P-2-P relations - The Maldives is one of the very few countries with which India has a visa-free arrangement.
- This is important in facilitating people-to-people exchanges and travel between the two countries.
• **Climate** - Both sides agreed on the importance of combating the impact of climate change, especially detrimental to developing countries, and small island developing states.

• They agreed on the need to work towards strengthening the global response to climate change, through the UNFCCC and the Paris Agreement.

• **Institutional reform** - The voice and participation of developing countries in multilateral financial institutions has to be enhanced.

• Maldives reiterated support for India's candidature for permanent membership of an expanded and reformed UN Security Council.

• It has also supported India's candidature for a non-permanent seat for the year 2020-21.

• **Trade** - India has noted the expanding opportunities for Indian companies to invest in the Maldives to boost trade ties.

• Areas such as fisheries development, tourism, transportation, connectivity, health, education, information technology, new and renewable energy and communications were earmarked for enhancing bilateral cooperation.

• The two sides also signed four agreements –
  1. Visa liberalisation for Indian investors
  2. Cultural cooperation
  3. IT and electronics cooperation
  4. Improving the ecosystem for agriculture business.

### 6.8 New Electricity Guidelines for South Asia

*The Union Ministry of Power issued a memo that set the rules for the flow of electricity across South Asian borders.*

• In the early 2000s, India tried with the SAARC countries for cross-border energy flows.

• It began to gain steam with substantial power trade agreements between India and Bhutan (2006) and Bangladesh (2010).

• These were driven by India’s need for affordable power to fuel quickened growth in a recently liberalised economy.

• The SAARC Framework Agreement for Energy Cooperation and the India-Nepal Power Trade Agreement were signed in 2014.

• These agreements imposed only few restrictions on trade.

• But it formulated an institutional structure to allow private sector participation and to facilitate market rationality in electricity commerce.

• The new government aimed for a seamless SAARC power grid, for power transmission within SAARC countries.

• E.g. offshore wind projects set up in Sri Lanka’s coastal borders to power Pakistan or Nepal

• But later, in 2016, the Union Ministry of Power released certain guidelines.

• It imposed a slew of major restrictions on who could engage in cross-border electricity trade.

• They seemed to be a reaction to perceptions of increased Chinese investment and influence in the energy sectors of South Asian neighbours.

• The guidelines prevented anyone other than Indian generators in the neighbouring country from selling power to India.

• So, many privately held companies, particularly in Nepal, that had hoped to trade with India were excluded.

• In restricting access to the vast Indian market, the economic rationale for Nepali hydropower built for export was lost.

• The requirement that the exporting generation companies to be majority owned by an Indian entity worried Bhutan.
This created friction in joint ventures between India and Bhutan.

Bhutan was also concerned about the limited access to India’s main electricity spot markets.

Here, Bhutan could have been well placed to profit from evening peaks in demand.

Bangladesh sensed an opportunity to partially address its power crisis with imports from Bhutan and Nepal routed through Indian territory.

But the guidelines complicated this by giving India disproportionate control over such trade.

Liberal - A liberal trading regime is in India’s national interest.

So the new guidelines resolve the above issues and make the governance of electricity trade less restrictive.

The concern that India was enabling the incursion of foreign influence into neighbouring power sectors was addressed.

India now recognises that economic interdependency created by such arrangements have the political benefit of positioning India as a stable development partner.

Greener grid - As India transitions to a power grid dominated by renewables, regional trade could prove useful in maintaining grid stability.

A wider pool of generation sources, particularly hydropower from the Himalayas, is instrumental for a greener grid.

Nepal and Bhutan have also, for long, recognised the potential of sustainable use of vast hydropower reserves for their prosperity.

7. BILATERAL RELATIONS

7.1 India-Myanmar-Thailand Trilateral Highway

The IMT trilateral highway will connect Moreh in Manipur to Mae Sot in Thailand.

India is undertaking construction of two sections of the Trilateral Highway in Myanmar.

The two sections are,

1. Construction of Kalewa-Yagyì road section
2. Construction of 69 Tamu-Kyigone-Kalewa (TKK) road section.

Both the projects are being funded by Government of India under grant assistance to the Myanmar.

They were awarded on Engineering, Procurement and Construction mode.

The highway will facilitate easy movement of goods and people among the three countries.

The National Highways Authority of India has been appointed as the technical executing agency and project management consultant.

7.2 Agusta Westland Helicopter Deal Case

British businessman Christian Michel, a key accused in the AgustaWestland deal case, was extradited to India.

Deal - The Congress-led UPA government had in February 2010 signed a contract with AgustaWestland, a UK-based helicopter manufacturing company.

AgustaWestland is the British arm of Italian firm Finmeccanica.

The contract was to purchase 12 AW101 helicopters for the Indian Air Force for Rs 3,600 crore.

These helicopters were supposed to be used for ferrying the President of India, the Prime Minister, and other such VVIPs.

Allegation - It was alleged that technical specifications of the required choppers were tweaked.
• This includes lowering of the service ceiling of the helicopter from 6,000 m to 4,500 m to help AgustaWestland qualify and win the bid.
• AgustaWestland’s parent company Finmeccanica allegedly paid kickbacks to win the VVIP chopper deal with the Indian Air Force.
• The CBI has alleged there was an estimated loss of Euro 398.21 million ((app. Rs 2,666 crore) to the exchequer in the deal.
• Michel is one of the three middlemen who brokered the deal, besides Guido Haschke and Carlo Gerosa.
• They are being probed in the case by the enforcement directorate (ED) and the Central Bureau of Investigation (CBI).
• He has, reportedly, paid bribes to officials and politicians to make the contract in favour of AgustaWestland.
• In January, 2014, India scrapped the contract over alleged breach of contractual obligations and charges of paying kickbacks for securing the deal.
• India’s track record with securing the extradition of fugitives from justice has been modest as only one third of all requests since 2002 have been accepted.
• Amongst the 44 countries India has extradition treaties with, the United Arab Emirates has been the most amenable.
• It has deported or extradited 19 of 66 fugitives to India in the past decade and a half.
• A reason for the low success rate in the past is the perception that India’s criminal justice system delivers too slowly.
• E.g. the last high-profile case of the 1993 Mumbai blasts accused Abu Salem, who was extradited from Portugal in 2005
• His trial was finally completed in 2017, when he was sentenced to life.
• Christian Michel is a UK citizen living in Dubai, UAE.
• So being not an Indian national, extraditing to a third country, India was challenging.
• Unlike similar cases in which extradition was granted, he is not wanted on serious criminal charges like murder.
• Also, his extradition comes at a time when several other cases of businessmen who have fled India are pending.

7.3 Saudi Crown Prince’s Visit to India - Outcomes
Crown Prince Mohammed bin Salman of the Kingdom of Saudi Arabia paid his first State visit to India.

• Agreements - The following Memorandums of Understanding (MoUs) were signed during the visit:
  i. MoU on investing in the National Investment and Infrastructure Fund of India
  ii. Framework cooperation programme between Invest India and Saudi Arabia General Investment Authority (SAGIA)
  iii. MoU on cooperation in the field of Tourism
  iv. MoU on cooperation in the field of Housing
  v. MoU for cooperation on Broadcasting for exchange of Audio-Visual Programmes
  vi. Agreement for the Kingdom of Saudi Arabia to join the International Solar Alliance (ISA) launched by PM Modi

• Defence - More cooperation and collaboration in joint defence production of spare parts for Naval and Land systems as well as supply chain development was spelt out.

• Strategic partnership - The commitment to strengthen the ‘strategic partnership’ envisaged in the ‘Riyadh Declaration’ of 2010 was reaffirmed.
• It was agreed to elevate the existing ‘Strategic Partnership’ with high level monitoring mechanism by the creation of Strategic Partnership Council.
• This will be led by the Indian PM and the Crown Prince of Saudi Arabia, with support by ministerial representation.
• The council would cover the whole spectrum of security and strategic relationships.
• **Security** - A ‘Comprehensive Security Dialogue’ will be constituted at the level of National Security Advisors to discuss counter-terrorism, intelligence-sharing and maritime security.
• A Joint Working Group on Counter-Terrorism will also be set up to enhance cooperation in counter-terrorism efforts.
• The two sides also agreed to work together with other Indian Ocean Rim Countries for enhancing maritime security and international trade.
• **Trade** - Importance of increasing the trade volume between the two countries and eliminating export barriers was stressed upon.
• Further deepening of trade and investment cooperation was agreed upon, by aligning Saudi’s Vision 2030 and 13 Vision Realization Programs with India’s flagship initiatives.
• **Investments** - Saudi welcomed Indian private/public sector investments and expertise in the upcoming mega projects in Saudi Arabia.
• It has expressed its interest in investing in infrastructure projects worth about $26 billion.
• This is beyond its already committed investments of $44 billion for the existing joint venture with the public sector oil undertakings and public fund investments of $10 billion.
• **Energy** - The two sides stressed on continuation of the India-Saudi Arabia Energy consultations and expressed desire to develop the bilateral trade in energy sector.
• The buyer-seller relationship in the energy-sector would be transformed to strategic partnership, focusing on investment and joint ventures in petrochemical complexes.
• It comes as an acknowledgement of Saudi Arabia as the world’s most reliable supplier of oil & gas and the key supplier to India.
• Saudi Arabia also takes part in India’s Strategic Petroleum Reserves (SPRs) (huge stockpiles/emergency stores of crude oil).
• Potential cooperation in the renewable energy sector in investment as well as in Research and Development was recognised.
• **Skill Development** - A Joint Working Group on Skill Development would be set up to identify areas of cooperation for mutual benefit.
• **Terrorism** - The joint statement of the two sides condemned the recent Pulwama terror attack.
• It acknowledged that disputes between India and Pakistan must be resolved bilaterally.
• It also called on states to renounce the use of terrorism as an instrument of state policy.
• The need for concerted action by the international community against terrorism was also emphasized.
• It includes the early adoption of UN Comprehensive Convention on International Terrorism, comprehensive sanctioning of terrorists and their organisations by the UN.
• **Haj** - The Crown Prince agreed to increase Haj quotas from India to 200,000, to reflect the latest census.
• He also agreed to release 850 Indians from Saudi jails after a plea from Indian PM Modi.

### 7.4 India and South Africa

• India and South Africa has agreed on a three-year strategic partnership agreement to boost relations.
• The agreement will cover defence and security, blue economy cooperation and sustainable development.
• India invited South Africa to join the International Solar Alliance (ISA) and congratulated it on securing the non-permanent membership of the UN Security Council for 2019-20.
• A joint statement was released to reiterate the role of the Indian Ocean Naval Symposium (IONS) that ensures freedom of navigation by keeping sea lanes free and secure.
7.5 **India and Central Asia Dialogue**

- The first India-Central Asia Dialogue was held in Samarkand, Uzbekistan.
- It was co-chaired by India’s External Affairs Minister (EAM) and the Foreign Minister of Uzbekistan.
- The Foreign Minister of Afghanistan was participated in the dialogue as a special invitee for the session.
- The meeting was dedicated to connectivity issues in the region.
- It deliberated on developing viable connectivity options between India and Afghanistan and Central Asia to further facilitate trade and economic activity in the region.

8. **INTERNATIONAL ISSUES**

8.1 **Changes to H1B Visa Rules**

*The U.S. government is proposing to change H1B visa rules that may have a significant impact on Indians.*

- The H1B visa is an employment-based, non-immigrant visa for temporary workers in the U.S.
- It allows US companies to employ graduate level workers in specialty occupations that require theoretical or technical expertise in specialized fields.
- The proposed rule will require potential H1B petitioners to electronically register with U.S. Citizenship and Immigration Services (USCIS).
- This should be during a designated period, prior to petitions being filed.
- It also changes the order in which the advanced degree lottery and general H1B lottery are conducted.
- Under the proposed rule, advanced degree registrations will be selected first up to a cap of 20,000.
- After this, the regular H1Bs, up to a cap of 65,000, are selected from all the unselected registrations.
- The unselected registrations will also include those advanced degree registrations that did not get selected in the exclusive advanced degree lottery.
- There is a higher probability that advanced (U.S. masters and higher) degree holders will be selected in larger numbers than regular H1B applicants.
- It is aimed at awarding this popular work visa to the most skilled and highest paid foreign workers.
- The changes could also potentially bring down the costs for sponsoring companies, by reducing the paperwork of sponsors.
- Only those H1B sponsoring employers who get selected from the list of registered petitioners will be required to actually submit H1B petitions.
- This applies for both regular and advance degree categories.
- This will have a significant impact on Indians, as 74% of H1B petitions were on behalf of India-born workers in the fiscal year 2018.
- The two major H-1B beneficiary groups are:
  i. Indian employees that work for the big IT majors in the US
  ii. Indian students who obtain a US Master’s/Ph.D. degree and then apply for H-1B visas at US-based companies
- The proposed rules, if implemented, will dramatically tilt this competition in favour of the students.
- The new process could increase the number of H-1B holders who have advanced degrees by up to 16%.
- So the IT majors will lose heavily to a tune of over 10,000 visas each year.

8.2 **Withdrawal of US Forces from Syria**

*US President Donald Trump has decided to pull all American troops out of Syria and reduce by half the US forces in Afghanistan.*

- The US has about 2,000 troops in Syria and 14,000 in Afghanistan.
• Right from his election campaign, Trump had criticised US military interventions in Afghanistan and Iraq as extremely expensive and politically foolish.
• Rather than spend American blood and treasure abroad to serve other people’s causes, Trump insisted he would put America First.
• He has been demanding a thorough overhaul of America’s external commitments.
• He claims that the physical infrastructure of the IS caliphate is destroyed.
• So the U.S. can leave the war against the remnants of the jihadist group to the Syrian government and its main backers, Russia and Iran.
• The caliphate is actually destroyed as the IS has lost 95% of the territory it once controlled.
• It is now confined to narrow pockets on the Iraqi-Syrian border.
• The U.S. would also not like to get stuck in Syria forever as it is basically Russia’s war.
• The U.S. is already stranded in Afghanistan (for 17 years) and Iraq (over 15 years) without a way out.
• The U.S. has only 2,000 troops in Syria, and they were not directly involved in the ground battle.
• They were supporting the Syrian Democratic Forces, a rebel group led by Kurdish rebels who were in the forefront of the fight against the IS.
• The U.S. support for the Kurdish rebels has irked Turkey.
• Turkey sees them as an extension of the Kurdistan Workers Party, the rebels on the Turkish side who have been fighting Turkish troops for decades.
• Turkey considers the military consolidation of Kurds as a strategic threat.
• In the past, Turkey had attacked Kurds in some pockets on the Syrian side, but was prevented from launching a full-throttle attack because of the U.S. presence.
• So the US pull out would in effect be leaving the Syrian Kurds at the mercy of Turkish troops.
• A risk factor will emerge if Turkey launches an attack on the Kurdish militants, which President Erdoğan has vowed to do.
• The Kurds will then have to re-channel their resources to fight Turkish soldiers.
• This will weaken the ground resistance against the remaining IS militants on the southern side of the border.

8.3 Greece-Macedonia Dispute

The Republic of Macedonia recently voted to change their country’s name to the “Republic of North Macedonia”.
• Macedonia broke away from the former Yugoslavia in 1991 and declared independence.
• The country measures a little over 25,000 sqkm and has a population just over 2 million.
• A region of Greece bordering the Macedonian republic is also called Macedonia.
• Hence, Greece, being the neighbouring country, has objected to the adoption of this name and insisted that the name apply only to the Greek region.
• Greece also raised concerns that the adoption of this name implies the Macedonian republic’s territorial aspirations over the northern region of Greece.
• Consequently, the Greeks have been blocking the Macedonian republic’s entry to NATO and EU membership.
• Greece's objections also forced the United Nations to refer to Macedonia as the former Yugoslav Republic of Macedonia.
• Since 1991, many suggestions have been proposed and then rejected.
• But a change of government in Macedonia in 2017 finally led to the deal reached last year.
• Under the proposed agreement, the country’s language will be called Macedonian and its people known as Macedonians (citizens of the Republic of North Macedonia).
• Also, under the deal, Greece said it would drop its objection to the neighbouring country’s entry into the EU and NATO if the changes are formally adopted.
• The new name will be used both internationally and bilaterally, so that even the 140 or more countries that recognise the name Macedonia will also have to adopt North Macedonia.
• Though Macedonia voted in favour of the name change, the Greek Parliament still needs to vote.
• However, this will likely prove no easy task given how deeply divisive the issue remains in Greece.
• However, NATO and European leaders have welcomed the move.
• NATO strongly supports the full implementation of the agreement, which is an important contribution to a stable and prosperous region.
• Thus, Political leaders and citizens alike have shown their determination to seize this unique and historic opportunity in solving one of the oldest disputes in the region.

8.4 US – Mexico Border Wall Issue

The U.S. federal government partially shut down recently on the backdrop of the issue constructing a border wall between U.S. and Mexico.

• The U.S. government shuts down if the Congress does not pass —
  1. Appropriation bills (appropriating federal funds to government departments, agencies, programmes)
  2. Continuing resolutions (appropriations legislation allowing funding on a formula based on the previous year’s funding)
• It also happens when the President fails to sign such bills or resolutions into law.
• The consequence is that certain parts of the government shut down and the staff that are deemed “non-essential” are sent on temporary unpaid leave.
• Only “essential” staff, such as those who deal with national security or public safety, continue to work.
• Unpaid workers receive pay retroactively after the shutdown ends.
• Shutdowns occur the most frequently when Congress and the President take stands that are mutually hostile.

8.5 UN Blacklisting of Hamza Bin Laden

United Nations Security Council’s (UNSC) Sanctions Committee blacklisted Hamza bin Laden, the son of slain Al-Qaeda chief Osama Bin Laden.

• Hamza bin Laden is the 30-year-old son of slain Al-Qaeda chief Osama Bin Laden.
• In 2015, Hamza was introduced by Osama Bin Laden’s successor Ayman al-Zawahiri in an audio message.
• The US-based Brookings Institution claims that Hamza was with his father (Osama) in Afghanistan, prior to 9/11 attacks.
• Hamza is also said to have spent time with his father in Pakistan after the NATO invasion of Afghanistan in the aftermath of 9/11 attacks.
Now, in the light of the Islamic State occupying the centre stage in the terrorist world, Hamza is seen as a fresh face.

Al Qaeda thus seems to bank on him to increasingly inspire the youth to join militancy.

The blacklisting of Hamza would mean that he is subjected to a travel ban, freezing of his assets along with an arms embargo.

His entry or transit in any of the countries that are UN members will not be allowed in accordance with the travel sanctions.

Freezing of assets requires all UN member governments to immediately freeze funds, financial assets or any economic resources that come under direct or indirect ownership of the designated individual.

The arms embargo prevents Hamza from acquiring arms and ammunition.

All UN member countries are directed to block the channels that might directly or indirectly facilitate the sale of arms to the Al Qaeda leader.

In addition to this, all member states are required to prevent the transfer of arms, ammunition, spare parts and other related articles, to Hamza.

Non-material support in the form of technical advice, assistance, logistic support, or training in relation to military activities is also prohibited.

8.6 China’s Block on UN Action - Masood Azhar as Global Terrorist

China for the fourth time blocked a bid to designate Jaish-e-Mohammed (JeM) chief Masood Azhar as a “global terrorist” at the UN Security Council (UNSC).

From 2016 to 2018, India’s proposals to list Azhar, with evidence of JeM involvement in the Pathankot airbase attack, were foiled by China.

It placed technical holds on the listing, and then vetoed it.

The vetoes came despite the fact that the JeM is banned, and in the UNSC listing it is noted that Azhar, as its leader and founder, accepted funds from Osama bin Laden.

China is well aware of the evidence against him but is not ready to withdraw its objections.

India-China relations have improved after the Wuhan summit in April 2018.

Despite this, China is unwilling to align itself with India on its concerns on cross-border terrorism emanating from Pakistan.

After the Pulwama attack, claimed by the JeM, the government had made the listing of Azhar a focus in its diplomatic efforts.

It reached out to several governments, and shared a report on Azhar with each member of the Security Council.

All of them are members of the 1267 ISIL and al-Qaeda sanctions committee.

A special effort was made with Beijing too which has been blocking the Azhar listing in the past.

The proposal to designate Azhar under the 1267 Al Qaeda Sanctions Committee of the UNSC was moved by France, the UK and the US.

This came after a suicide bomber of the JeM killed 40 Central Reserve Police Force (CRPF) soldiers in Jammu and Kashmir’s Pulwama.

The Al Qaeda Sanctions Committee members had 10 working days to raise any objections to the proposal.

Just before the no-objection period deadline, China put a “technical hold” on the proposal.

Reportedly, China asked for “more time to examine” the proposal.

The technical hold is valid for up to 6 months and it can be again extended by up to 3 months.
8.7 ICJ Advisory Opinion on Chagos Archipelago

The International Court of Justice (ICJ) in The Hague has said that the UK should end its control of the Chagos Islands in the Indian Ocean.

- The United Kingdom gained control of Mauritius, including the Chagos Archipelago, from France in 1814.
- **Separation** - Britain detached the Chagos Islands from Mauritius in 1965, 3 years before Mauritian independence.
- Under the 1965 agreement, Britain has maintained control of the islands in return for compensation to Mauritius and fishing rights.
- The leaders of Mauritian independence movement then agreed to the separation of the islands, fearful that if they did not do so, independence would not be granted.
- But Britain continued its administration despite Mauritius’ later efforts to regain control and the UN resolutions requiring it to complete the decolonisation of Mauritius.
- **Military base** - From 1967 to 1973, some 1,500 Chagos islanders were gradually forced to leave their homes.
- This was to lease Diego Garcia, the largest island in the Chagos Archipelago, to the US for a strategic military base.
- In 2016, after several judicial challenges, Britain extended Diego Garcia’s lease until 2036.
- It also declared that the expelled islanders would not be allowed to go back.
- Today, Diego Garcia hosts a major US military base and is a strategic node in US bombing campaigns in Afghanistan and Iraq.
- On the other hand, for five decades since their removal, the islanders have been fighting for their right to return.
- Under Article 96 of the UN Charter, the General Assembly can request that the ICJ give an advisory opinion on “any legal question”.
- In 2017, the UN General Assembly adopted a resolution, on Mauritius' petition, calling on the ICJ to deliver an advisory opinion.
- The ICJ was to decide if UK's continued administration of the Chagos Archipelago after the 1968 decolonisation process of Mauritius was lawful.
- But UK was opposed to ICJ's intervention, saying it would be inappropriate in a dispute between states that have not both consented to ICJ jurisdiction.
- Also, while ICJ advisory opinions are not binding, the ramifications of the opinion will be highly significant.
- This is because an opinion in favour of Mauritius may strengthen their position in any future negotiations.
- It might as well put significant international pressure on the UK over the status of the territory.
- The ICJ rejected the contention that the issue did not fall within its jurisdiction, as it was a bilateral matter for the two countries.
- ICJ concluded that the decolonisation of Mauritius was not lawfully completed due to Britain’s continued administration of the isalnd.
- It said that any detachment of part of a colony had to be based on the “freely expressed and genuine will” of the people.
• So the continued administration amounted to a “wrongful act” and inconsistent with the right to the people of “self determination.”

• Moreover, the U.S. base’s construction led to the displacement of some 1,500 people who have been unable to return to the islands.

• It was thus noted that the original agreement had not allowed for third party involvement in the territory.

• In all, Britain has to end its administration of the Chagos Archipelago and complete the process of decolonisation of Mauritius.

• **Mauritius** - It is a significant legal victory for Mauritius and other nations, including India that supported its case.

• **U.S.** - ICJ’s advisory opinion is unlikely to impact the U.S. military base as Mauritius is committed to the continued operation of the base in Diego Garcia.

• It is prepared to enter into a long-term framework, in regards with the military base, with the parties concerned.

• **U.K.** - It said that it would examine the ICJ’s advisory opinion, but stressed increasingly the security significance of the islands.

• UK maintains that the defence facilities on the island help to protect people in Britain and around the world from terrorist threats, organised crime and piracy.

• **Chagossians** - In an ideal world, Britain would be compelled to hand the islands to Mauritius, but ICJ’s advisories are not always acted on.

• So the implications of the advisory opinion for the Chagossian people remains to be seen.

• Right to self determination and the respect that they deserve will have to be acknowledged through proper compensation.

• Any decisions on Chagos Islanders’ future must be made by those who once inhabited them and their descendants.

• The case is seen as having far wider ramifications beyond the two parties immediately concerned.

• It’s because the dispute deals with issues of post-colonial sovereignty, legacy of colonialism and hence an imbalance of power is involved in the relationship.

• So the legitimacy of the agreements struck between colonial powers and their colonies in the final stages before independence is a debatable one.

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**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, according to the tenets of international law.

• ICJ is not to be confused with 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 arm of the UN, the ICC is legally and functionally independent from the United Nations.

• Contrary to judgments, and except in rare cases where it is expressly provided that they shall have binding force, the advisory opinions are not binding.

• The requesting organ, agency or organization remains free to decide, as it sees fit, what effect to give to these opinions.

• Despite having no binding force, the Court’s advisory opinions carry great legal weight and moral authority.
8.8 Political crisis in Venezuela

Recently, Juan Guaidó declared himself as the interim president of Venezuela, challenged the leadership of President Nicolás Maduro.

- Maduro assumed the presidency of Venezuela following the death of his mentor, Hugo Chávez, in 2013.
- Ever since, he has seen the economic fortunes of the oil-rich nation slide further.
- There was corruption and mismanagement, intense centralisation of power and a severe clampdown on dissent.
- When oil prices started falling from its 2014 highs, it badly hit Venezuela that was over-reliant on petroleum exports.
- The country was also borrowing heavily to fund its over-spending on social welfare programmes.
- However, Mr. Maduro’s government was clueless when the economy started collapsing.
- At least 90% of the people now live below the poverty line, inflation is forecast (by IMF) to touch 10 million per cent (hyperinflation) this year and the food and medicine shortages are widespread in the country.
- The economic woes have also triggered a massive migrant crisis, with nearly three million are estimated to have fled the country in recent years. (United Nations migration agency)
- After the attempted overthrow by the opposition in 2017, the Venezuelan government tried to deepen public participation by the formation of a Constituent Assembly.
- But this was being regarded as anti-democratic by the opposition.
- In May 2018, Maduro won a re-election in the midst of economic and humanitarian crises that have increasingly buffeted the country.
- The elections were held despite main opposition boycotted last year’s presidential election.
- Hence, Mr. Guaidó claimed that election was not free and fair and therefore Mr. Maduro is not the legitimate President – a claim that the U.S. and its allies back.

**Consequences** - It is against this fraught political backdrop that Guaidó, a staunch critic of Maduro and Chavez, was elected president of the National Assembly this month.

- Guaidó, as the new head of the National Assembly, declared himself “acting President”, challenging the authority of President Nicolás Maduro.
- The US was the first to recognise Guaidó as president minutes after his declaration.
- A slew of Latin American nations with conservative regimes have also supported Guaidó, including Brazil, Argentina, Chile, Colombia, Peru and Costa Rica.
- On the opposite side, Russia, China, Iran, Syria and Cuba supports the incumbent regime.
- Following the U.S. move, Mr. Maduro cut diplomatic ties with the U.S. and ordered American diplomats to leave in 72 hours.
- A coordinated international effort is required to restore some degree of economic and political normalcy.
- On its part, the US must be careful, since back then in 2002, a failed coup in Venezuela was traced to senior officials in the then US government.
- Given the volatility of Venezuela right now and its checkered past, the US must act with responsibility.

8.9 Ceasefire in Yemen War

The Ceasefire between Yemen’s rebels and forces loyal to President Abd-rabbuh Mansur Hadi came into existence in Al-Hudayda city.

- Yemen conflict has its roots in the failure of a political transition supposed to bring stability to Yemen following an Arab Spring uprising.
- The event forced its longtime authoritarian president, Ali Abdullah Saleh, to hand over power to his deputy, Abd-rabbuh Mansour Hadi, in 2011.
This is because president, Mr Hadi struggled to deal with a variety of problems, including attacks by jihadists, a separatist movement in the south, and the continuing loyalty of security personnel to Saleh, as well as corruption, unemployment and food insecurity.

The Houthi movement, which champions Yemen’s Zaidi Shia Muslim minority and fought a series of rebellions against Saleh.

Alarmed by the rise of a group believed to be backed militarily by regional Shia power Iran, Saudi Arabia and eight other mostly Sunni Arab states began an air campaign aimed at restoring Mr Hadi's government.

The coalition received logistical and intelligence support from the US, UK and France.

The Saudi-led coalition had blockaded the Al-Hudayda port city, the main conduit for humanitarian aid to enter Yemen, for months, and the fighters, mostly UAE soldiers, were battling the rebels.

**Ceasefire agreement** - The ceasefire between Yemen’s Houthi rebels and forces loyal to President Abdrabbuh Mansur Hadi in the port city of Al-Hudayda came into existence recently.

The agreement was reached in UN-mediated talks held in Stockholm earlier this month.

This is due to the global pressure faced by Saudi Arabia to stop fighting in Yemen after the murder of journalist Jamal Khashoggi inside its consulate in Istanbul.

The spotlight on Yemen and its deteriorating humanitarian situation has been so strong after the Khashoggi affair that even the U.S., which supports Riyadh in the war, cut down its involvement by ending refueling of coalition aircraft.

With the UN also pushing for talks, the Yemeni government backed by Saudi Arabia gave the green light for talks.

According to the agreement, all combatants should withdraw from Hodeida in 21 days.

UN observers will set up a monitoring team of government and rebel representatives to oversee the truce.

But the Stockholm agreement is primarily focused on Yemen’s humanitarian conditions and that is why the ceasefire was agreed only in Hodeida.

A solution to conflict can be found only if the rebels and the government make some political concessions.

**8.10 Beirut Declaration**

Economic and Social Council of Arab league organised Arab Economic and Social Development Summit.

The summit is held at the state level address issues of economic and social development among member-states.

The inaugural summit was held in 2009 in Kuwait.

The 2019 summit was held in Lebanon Capital Beirut.

Beirut declaration was adopted at the summit, which calls for the establishment of an Arab free trade zone and the international community to support countries hosting refugees and displaced people.

Lebanon, which hosts hundreds of thousands of Syrian refugees, called for their return to Syria after President Bashar al-Assad regained control of most of the country. Other countries had insisted this discussion be linked to a political solution.
• This has led to divisions among Lebanese politicians and regional leaders over the reinstatement of Syria into the Arab League.

### Arab League

- It is a regional organization of Arab countries in and around North Africa, the Horn of Africa and Arabia.
- It was formed in Cairo in 1945 with 6 members - Kingdom of Egypt, Kingdom of Iraq, Jordan, Lebanon, Saudi Arabia, and Syria.
- Currently, the League has 22 members, but Syria's participation has been suspended since November 2011, as a consequence of government repression during the Syrian Civil War.
- Its objective is to draw closer the relations between member States and coordinate collaboration between them, to safeguard their independence and sovereignty, and to consider in a general way the affairs and interests of the Arab countries.

#### 8.11 Asia Reassurance Initiative Act

- U.S President has recently signed Asia Reassurance Initiative Act (ARIA), which was passed by the U.S senate earlier.
- The act establishes a multifaceted U.S. strategy to increase U.S. security, economic interests, and values in the Indo-Pacific region.
- Specifically, the ARIA will authorize $1.5 billion in spending for a range of U.S. programs in East and Southeast Asia.
- It draws attention to U.S. relations with China, India, the ten member states of the Association of Southeast Asian Nations (ASEAN), and Northeast Asian allies Japan and South Korea.
- ARIA devotes attention to the maritime commons in the Asia and the South China Sea, where it calls on the United States to support the ASEAN nations as they adopt a code of conduct in the South China Sea with China.
- It reasserts U.S. support for Taiwan and calls on the president of the U.S to “encourage the travel of high-level U.S officials to Taiwan, in accordance with the Taiwan Travel Act,” which was made law in 2018.

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