

## 1. Recent developments in Karnataka and Goa legislative assemblies prove that the political problem of defection can't be addressed by the legal solution of the anti-defection law. Comment.

### Introduction

The anti-defection law under 10th schedule of the constitution was enacted through the 52nd amendment after a prominent culture of 'Aaya Ram Gaya Ram', in which legislators used to change parties frequently, was witnessed in the Indian polity.

### Body

#### Anti-defection law:

- Grounds of disqualification-
  - Voluntarily giving up membership of the party
  - Voting against the direction of whip in the house
- Also, it provides in case of merger, if two-third of members of the party agree, there will be no disqualification, thus, validating mass defections.

A legislator is well within his rights to change party; in fact, he must if he loses trust in his parent party or finds another ideology more attractive. But any shift in political affiliation would mean the right to represent the mandate is lost, making the role of anti-defection law important.

Recent developments in Karnataka and Goa, though are defection, pass the anti-defection test and the members can continue to be a part of the government.

- **Karnataka**- Members resigned from the house instead of party, thus reducing the government to a minority and not inviting the wrath of anti-defection law onto themselves.
- **Goa**- Here mass defections were witnessed which are valid as per the law.

Both the above cases, as well as recent trends in Telangana and Rajya Sabha, show how legislators can bypass laws and thus there is a need to look at the problem from more than a legal perspective.

#### Way forward:

- Prevent unholy alliances- Parties form post-poll coalitions with the opposing parties only to form government, even when the ideologies do not match and against the wishes of elected legislators, as happened in case of Karnataka.
- Internal democracy- Parties should promote internal democracy for the member to express their opinion on important matters concerning parties, like with whom to form coalition, who should be chief minister etc.

### Conclusion

Keeping defections in check ensures stability of governance and helps in keeping up with the mandate of people. Thus, to uphold this spirit, reforms within the parties are required apart from the legal solution.

**Q 2. What is the significance of the post of the Chief Economic Advisor (CEA). Has the post of CEA become a political one? Critically comment.**

**Introduction:**

The Chief Economic Adviser (CEA) is a post in Government of India and is equivalent to the rank of Secretary to the Government of India. The CEA is head of Economic Division of the Department of Economic Affairs, Ministry of Finance, Government of India. The Chief economic adviser is either selected from inside the government (normally senior IAS officers) or from outside, like some professors of economics.

**Body:**

**Significance:**

The key roles of India's chief economic advisor are to determine the government's overall strategy in managing the economy. The Chief Economic Advisor (CEA) advises the Government of India on matters related to finance, commerce, trade, economy. The CEA reports directly to the Minister of Finance. The CEA heads the Economic Division under the Department of Economic Affairs (DEA).

The Economic Division examines domestic and international economic trends. It undertakes research studies focusing on economic policies and management of the economy. Based on the research it provides advice to the Government of India.

**Other Functions:**

- The CEA is the ex-officio cadre controlling authority of the Indian Economic Service.
- Help prepare the government's annual Economic Survey preceding the Union Budget, which provides a glimpse into its economic hits and misses.
- Study and advice about financial market risks.
- To help with advice in times of global turmoil.
- To contribute in preparing the budget.

**Office of CEA is being politicized in recent past:**

- Blame Game: Each government blames CEA of the previous government to produce overestimated data for GDP and Growth. Ex. Recent controversies over the politicisation of India's GDP data.

- Selection Procedure: The government constitutes a search committee to look for CEA. However, the Appointments Committee of Cabinet headed by Prime Minister gives the final approval for the appointment of the CEA. The earlier selection was done from UPSC.
- Selection of those economists who support the government. Ex. Current CEA Supported government on Demonetization.
- Appeasement politics: it is said that good economics is good politics. So onus comes on CEA to advise better economic policies for better politics of the government of the day.
- CEA favours government policies when in office and when he is outside they are critical of Govt. policies. Eg. Arvind Subramaniam has been critical of Indian GDP growth numbers.
- CEA is neither a constitutional office nor a statutory office. He favours govt. of the day.
- CEA has No security of tenure and its decisions are not binding on the government, so is not critical of government economic agenda.

But, the office of CEA still has its reputation intact because,

- Open Selection: Candidates from public and private academic or Financial Institution are also eligible to apply for the post of CEA.
- Selection based on academic record and talent: The last two chief economic advisors\_ Raghuram Rajan and Subramanian\_ had IMF-World Bank experience and academic background.
- The advice given by CEA is considered by government and been implemented in its economic policies or acts. Ex. SARFAESI Act, IBC Act, etc.

### **Conclusion:**

The office of CEA should be used for its true purpose with transparency and without being it politicized for the short term political gains. It is a must for India to become a \$5trillion economy by 2022.

### **3. What are the various constitutional and statutory bodies constituted to address corruption in public life? How effective have these bodies been? Examine.**

#### **Introduction:**

Corruption is a form of dishonest or unethical conduct by a person entrusted with a position of authority, often to acquire personal benefit. Corruption has its own effect on its societies which undermines democracy, Rule of law and violates human rights and allows organized crime, terrorism and threats to human security. Even national progress is seriously hampered due to corruption.

**Body:****Various bodies constituted for fighting corruption:****Statutory Bodies:**

- **Central Vigilance Commission:** Apex vigilance institution, free of control from any executive authority, monitoring all vigilance activity under the Central Government and advising various authorities in Central Government organizations in planning, executing, reviewing and reforming their vigilance work. It is empowered to inquire into offences alleged to have been committed under the Prevention of Corruption Act, 1988 by certain categories of public servants. Its annual report gives the details of the work done by the commission and points to systemic failures which lead to corruption in government departments..
- **Lokpal and Lokayukta:** They perform the function of an "ombudsman" and inquire into allegations of corruption against certain public functionaries and for related matters. Lokpal has powers of confiscation of assets, proceeds, receipts and benefits arisen or procured by means of corruption in special circumstances and power to recommend transfer or suspension of public servant connected with allegation of corruption.
- **Central Information Commission:** It plays important role in maintaining transparency in system of governance essential for healthy democracy. Such kind of transparency check aims to curb corruption, nepotism, oppression and misuse or abuse of the authority.

**Constitutional bodies:**

- **CAG:** Comptroller and Auditor General is supreme constitutional audit authority of India. Comptroller and Auditor General is the 'watchdog' on each and every financial transaction of Central or State department such as railway, telecom, public sector, organizations etc.
- **Election Commission:** Supreme authority to conduct free and fair elections, prevent corrupt practices and infiltration of corruption into the representative foundation of India.
- **Supreme Court:** The Supreme Court of India is the highest judicial court and the final court of appeal under the Constitution of India, with the power of judicial review and ensure just law prevails.

**Effectiveness of the bodies in preventing corruption:**

- **Legal measures taken:** Prevention of Corruption Act, the Comptroller and Auditor General, the Judges (Inquiry) Act, the Lok Pal and Lok Ayukta Act

2013, Whistle Blowers Protection Act 2011, Prevention of Money /Laundering Act, Benami Transactions (Prohibition) Act and most importantly the Right to Information Act. The Benami Transactions (Prohibition) Act, 1988 was amended to empower the Income Tax authorities to attach and confiscate Benami properties. Besides, if a person is found guilty of offence of Benami transaction by the competent court, he shall be punishable with rigorous imprisonment and shall also be liable to fine. Several Benami transactions have been identified since the coming into effect of the amended law.

- **Election reforms:** Cash donations-Recent amendments have reduced the limit on the cash donation to 2000 from the earlier 20000, thus restricting the inflow of anonymous black money into the funds of political parties. Disclosure norms-As earlier mandated by SC, politicians are required to make disclosure about their financial assets, education and criminal records thus helping the voters to make an informed choice and helping clean the politics of criminals
- The Central Vigilance Commission (CVC) saw a dramatic drop in the total number of complaints received by it in 2017, keeping in line with the drop in actions by various government departments in cracking down on corruption.
- Many CAG reports were instrumental in unearthing major scams like 2G and coal mines.

#### **What needs to be done?**

- Various commissions such as SARC and Santhanam committee have made important and feasible recommendation to strengthen anti-corruption establishment.
- Reforms in bureaucracy: Establishing the Civil Service Board to curb the excessive political control over administration, Using the new technologies such as AI and big data to automate routine procedures in government such as issuance of certificates etc
- Electoral reforms: Barring the criminals from entering the legislatures by amending RPA and empowering ECI by giving legal force making paid news a criminal offence
- Changes in governance: Bringing Transparency of the Rules Act (TORA) as recommended by Economic survey to increase transparency and awareness about rules.

#### **Conclusion:**

The causes of corruption in India include excessive regulations, complicated taxes and licensing systems, opaque bureaucracy and discretionary powers, monopoly by government controlled institutions on certain goods and services, delivery, and above all lack of transparency of laws and processes. Firm and strong steps are



needed to curb the menace and impose regulations to take strong, deterrent, and timely legal action against the offenders, irrespective of their political influences or money power.

#### 4. How important is the post of RBI Governor? Is it necessary that the RBI Governor's decisions resonate with the priorities of the government? Examine.

##### Introduction

RBI is an independent Statutory Body incorporated under the Reserve Bank of India Act, 1934 with a Separate Board of Directors comprising Full Time Governor, Full Time Deputy Governors (4) and Directors appointed under different fields/specialisations and the Secretary from Ministry of Finance (Ex- Officio).

##### Body

###### Appointment of RBI Governor:

- The Prime Minister's Office chooses the governor after consulting the finance ministry and the outgoing governor.
- No stipulations in Indian law regarding the qualification of governors, or even for those who will be nominated by the government for India's first monetary policy committee.

###### Role of RBI:

- Banker to Government.
- Right to Issue Bank note.
- Formulates Banking policy.
- Licensing Authority.
- Regulation and Management of Foreign Exchange.
- Monetary policy.
- Inflation control.

###### RBI Governor's decisions should resonate with the priorities of the government:

- **Owned by Government of India:** The Reserve Bank of India is India's central bank and is wholly owned by the Government of India.
- **Section 7 of RBI Act:** (1) The Central Government may from time to time give such directions to the Bank as it may, after consultation with the Governor of the Bank, consider necessary in the public interest. (2) Subject to any such directions, the general superintendence and direction of the affairs and business of the Bank shall be entrusted to a Central Board of Directors which may exercise all powers and do all acts and things which may be exercised or done by the Bank.

- **Legislature role:** The legislature interacts with central banks via a variety of mechanisms, such as frequent meetings and consultations.
- **Stereotyping:** Parliament has decided that since accountability rests with an elected government and not the expert official, so should powers.

Example: Monetary Policy Committee, all decisions beyond it fall within the realm of ‘accountability’, where the elected government has been enabled, again by law, to intervene when required. This is how it should be in any democracy.

#### **RBI Governor’s decisions should not resonate with the priorities of the government:**

- **Stable policy:** The objectives of monetary policy include ensuring inflation targeting and price stability, full employment and stable economic growth. These decisions should not be biased according to vested interests.
- **Autonomy:** The autonomy of the RBI is a grey area: though it does not legally enjoy the status of an autonomous institution, it largely functions as one.
- **Banker’s bank:** RBI acts as a banker for both the central as well as state governments. It sells and purchase government securities on their behalf. It also manages liquidity in the system. RBI role prevails.
- **Concerned about banking system:** RBI wants more power over regulating Public Sector Banks (PSBs). Government wants flexibility.  
Examples: NPA rules, dividends, prompt corrective action framework, bad loans.
- **Conflict:** The RBI-Ministry of Finance conflict—highly public and fiercely political—saw officials from both institutions engage in a battle of turfs through official speeches, press releases, and social media statements.

#### **Conclusion**

The tussle between RBI and Government may impact the image of India as stable market; therefore, it is necessary that government should respect the mandate of RBI as Central Bank. At the same time, it must also be understood that RBI has adequate autonomy within the mandate of the RBI Act. Therefore, both parties must talk behind closed doors resolve their differences amicably as they have done so many times in the past.

#### **5. Discuss the mandate, constitution and performance of the National Human Rights Commission.**

##### **Introduction**

The National Human rights commission is a statutory body established under the provisions of Protection of Human Rights Act, 1993. It is responsible for looking into

cases of excesses which are violating human rights and to strengthen the efforts to uphold the human rights in the country.

### Body

Recently Lok Sabha cleared **Protection of Human Rights (Amendments) Bill, 2019** which will strengthen the Human Rights Institutions of India and in perfect sync with the agreed global standards and benchmarks towards ensuring the rights relating to life, liberty, equality and dignity of the individual in the country.

#### Constitution of NHRC

The Commission consists of:

- A Chairperson
- One Member who is, or has been, a Judge of the Supreme Court of India
- One Member who is, or has been, the Chief Justice of a High Court
- Two Members to be appointed from among persons having knowledge of, or practical experience in, matters relating to human rights
- In addition, the Chairpersons of four National Commissions of ( Minorities, SC, ST, Women) serve as ex officio members.

#### Performance of NHRC

- NHRC has asked all state governments to report the cases of custodial deaths or rapes within 24 hours.
- It has taken the plight of undertrials in jails who are staying for several years even in petty cases due lack of financial security provision to secure bail bonds and affording lawyers etc. The horrible conditions of inmates and crimes inside prison by authorities and inmates are given attention.
- Suo moto took cognisance of deportation of Rohingya refugees –the commission was of opinion that Rohingya have a fear of persecution. Back in 1994 had taken about issue of safety of Chakma community in Arunachal Pradesh.
- It has made effort to rescue and rehabilitate bonded children, criticized the Juvenile Justice act, 2016.
- Had taken up issue of death of kids due to malnutrition in Odisha-The recommendations were accepted by state government.
- Had worked for improving the conditions of denotified tribes.
- Looking up for the sterilization tragedy of Chattisgarh among various other rights violation of women.
- Campaigning against discrimination of HIV patients.
- The NHRC has also worked against the discrimination of the LGBT community in India.
- It has conducted many public hearing on complaints of medical negligence and awarded compensations.



National Human Rights Commission (NHRC) chairman Justice H L Dattu said the rights watchdog needed some teeth to enforce its orders on remedial measures in cases relating to violations. He said NHRC is a **toothless tiger**.

#### **Issues with respect to NHRC:**

- Recommendations of NHRC are not binding: NHRC has had very little success in getting the victims financial compensation
- Has limited power over armed forces: Can only ask for a report from concerned department –This has handicapped NHRC with respect to involvement of violation of human rights by armed forces
- Non-compliance by the states with the directions for compensation issued by the commission
- Shortage of adequate number of trained staff to handle the growing number of complaints.
- Large expenditure on office expenses, leaving small amounts for research and rights awareness programmes.
- Private bodies are out of ambit of NHRC
- The NHRC does not have fair and equal means of representation in terms of gender, religious minority groups and disabled populations.

#### **Recommendations which can make NHRC more effective**

- The effectiveness of commissions will be greatly enhanced if their decisions are immediately made enforceable by the government.
- Can include civil society human rights activist's members for better understanding of situation at hand.
- Staff should be recruited independently rather than deputation from government.
- Should remove the barrier of not taking complaints older than a year.

#### **Conclusion**

The biggest achievement of NHRC has been to raise awareness about need to protect human rights and initiate a dialogue about the same. The journey ahead won't be easy but NHRC need to continue pushing mandate so as to fulfil expectation of people.