

SMART ABHYAS

Current Affairs Monthly

September 2018

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Smart Abhyas

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Smart Abhyas

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International Relations, Summits and Meetings

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Polity and Social Issues

Census 2021 to include OBC data

What is the issue ?

- More than 25 years after the implementation of reservation for Other Backward Classes, based on the Mandal Commission's recommendations, Census 2021 will be the first Census to count OBCs.

What does this mean ?

- Census 2021 will for the first time in independent India collect data on Other Backwards Castes (OBCs).

Background to the issue :

- The Mandal Commission report of 1980 estimated the OBC population at 52 per cent and classified 1,257 communities as backward.
- It recommended increasing existing quotas, which were only for SC/ST, from 22.5 per cent to 49.5 per cent to include OBCs.
- A decade later, its recommendations were implemented in government jobs, a move that triggered widespread protests.
- To assuage the protesters, the government introduced a 10 per cent quota for "economically backward sections" among forward castes.
- But the Supreme Court struck this down in the Indra Sawhney vs Union of India case judgment in 1992, where it held that the Constitution recognised only social and educational — not economic — backwardness.
- The apex court, however, held reservation for OBCs as valid and directed that the creamy layer of OBCs, or those earning over a specified income, should not avail reservation facilities.
- The overall reservation for SCs, STs and OBCs was capped at 50 per cent. Based on the order, the central government reserved 27% of seats in union civil posts and services, to be filled through direct recruitment, for OBCs

Highlights of Census 2011

- The population of the country as per the provisional figures of Census 2011 is 1210.19 million of which 623.7 million (51.54%) are males and 586.46 million (48.46%) are females
- Percentage growth in 2001-2011 is 17.64; males 17.19 and females 18.12
- 2001-2011 is the first decade (with the exception of 1911-1921) which has actually added lesser population compared to the previous decade.
- Uttar Pradesh (199.5 million) is the most populous State in the country followed by Maharashtra with 112 million
- Overall sex ratio at the national level has increased by 7 points to reach 940 at Census 2011 as against 933 in 2001.
- Kerala with 1084 has the highest sex ratio followed by Puducherry with 1038, Daman & Diu has the lowest sex ratio
- Child sex ratio (0-6 years) is 914. Mizoram has the highest child sex ratio (0-6 years) of 971 followed by Meghalaya with 970. Haryana is at the bottom ratio of 830 followed by Punjab with 846.

Uniform Civil Code is not desirable right now : Law Commission

What is the issue ?

- In a consultation paper, the Law Commission has opined that neither necessary nor desirable at this stage.
- Apart from Uniform Civil Code, the paper also went into matters of marriage, divorce and confessions.

What has the Law Commission said ? (Key take-aways)

Family Laws:

- To reform family law, the paper discusses the introduction of new grounds for 'no-fault' divorce accompanied by corresponding changes to the provisions on alimony and maintenance.
- It also goes onto discuss changes to the provisions on the rights of differently-abled individuals within marriage, the thirty-day period for registration of marriages under Special Marriage Act, uncertainty and inequality in the age of consent for marriage, compulsory registration of marriage and bigamy upon conversion.

Hindu Law:

- Under the Hindu law, it discusses problems with provisions such as restitution of conjugal rights.
- It suggests the inclusion of concepts such as 'community of property' of a married couple, abolition of coparcenary and rights of illegitimate children.
- It also makes suggestions for addressing self-acquired property of a Hindu female.

Muslim Law

- Under the Muslim law, the paper suggests reform in the inheritance law through codification of Muslim law on inheritance, while ensuring that the codified law is gender just.
- It also discusses the rights of a widow and the changes application to general laws such as introduction of community of (self-acquired) property after marriage and inclusion of irretrievable breakdown of marriage as a ground for divorce.

Parsi Law:

- Under Parsi law, the paper makes suggestions relating to protecting married women's right to inherit property even if they marry outside their community.

Juvenile Law

- The paper suggests the expansion of the Juvenile Justice (Care and Protection) Act, 2015 to make it into a robust secular law that can be accessed by individuals of all communities for adoption.
- It also makes suggestions for amending the guidelines for adoption and also a suggestion to alter the language of the Act to accommodate all gender identities.

Guardianship Laws

- The paper discusses a gap within the custody and guardianship laws, statutory or customary and suggests that the 'best interest of the child' has to remain the paramount consideration in deciding matters of custody regardless of any prevailing personal law in place.

Other Suggestions

- The paper also discussed a number issues such as polygamy, nikah halala, settlement of a Parsi wife's property for benefit of children and the law on adultery.
- But since they are presently being heard by the Supreme Court, the paper did not suggest any comprehensive changes at this stage.

About Law Commission : What is Law Commission?

- Law Commission of India is neither a constitutional body nor a statutory body.
- It is an ad hoc and advisory body whose work is to do research and make recommendations for law reforms such as amendments and updations of prevalent and inherited laws.
- None of these recommendations is binding upon the Government.

How is Law Commission established?

- Law Commission is established by an order of central government. Head of the Law Commission is selected by the Centre at its own discretion

- However, it is a convention that a retired judge of Supreme Court heads India's Law Commission.
- Further, the States also can constitute their own law commissions.

What is the composition of Law Commission?

The Commission is headed by a full-time Chairperson. Its membership primarily comprises legal experts, who are entrusted a mandate by the Government.

- a full-time Chairperson.
- four full-time Members (including a Member-Secretary).
- Secretary, Department of Legal Affairs as ex officio Member.
- Secretary, Legislative Department as ex officio Member.
- not more than five part-time Members.

The Commission is established for a fixed tenure (generally three years) and works as an advisory body to the Ministry of Law and Justice. Before finalising its recommendations, the Commission needs to consult the law ministry. Law Commission works in close co-ordination and under the general instruction of Ministry of Law and Justice. It generally acts as the initiation point for law reform in the country. Internally, the Law Commission works in a research-oriented manner.

History of Law Commission of India

India's first Law Commission was established in 1834 via Charter Act of 1833 under the Chairmanship of **Lord Macaulay**. This law commission had recommended codification of the Penal Code, the Criminal Procedure Code and a few other matters.

- After that, three more law commissions were established in British Era. The Indian Code of Civil Procedure, the Indian Contract Act, the Indian Evidence Act, the Transfer of Property Act. etc. are products of the works of Law Commissions of British Era.
- The chairman of second (1853) and third (1861) law commissions of British era was Sir John Romilly, while that of fourth (1879) was Dr. Whitley Stokes.

- The first Law Commission of independent India was established in 1955 for a three year term. The Chairman of this Commission was Mr. M. C. Setalvad, who was also the First Attorney General of India. The term of this Commission was established as three years (which by convention has been followed till date).

- Since then 20 more Commissions have been established.

Importance of Law Commission

- Although Law Commission has not been provided by the Constitution, yet it is inspired by various parts of Constitution such as Fundamental Rights and DPSP particularly article 39A, which says that State shall secure that the operation of the legal system promotes justice.
- Further, one of the mandates of the Constitution was the continuation of pre-Constitution Laws (Article 372) till they are amended or repealed. This mandate necessitated the need of a Central Law Commission which could recommend repeal, revision and updating of the inherited laws to serve the changing needs of the country.
- The various Law Commissions have been able to make important contribution towards the progressive development and codification of laws of the country. Law Commissions have so far submitted 262 reports.
- Law Commission of India is an advisory body but has been a key instrumentality in the process of law reform in India. It has sometimes has been critical of the government policies and has been recognized by the Supreme Court of India and also the academia as pioneering and prospective. In a number of decisions the Supreme Court has referred to the work done by the Law Commission and followed its recommendations.

Question related to Law Commission:

Consider the following statements with reference to Law Commission

1. It is a Constitutional body
2. Recommendations of Law Commission are binding on the government

Which of the following statements are true ?

- a) 1 only
- b) 2 only
- c) Both are true
- d) Both are false

Solution: d

Under Five Mortality Rate : Where does India stand ?

- India contributes the highest share of global deaths (about 10.8 lakh, as against China's 1.7 lakh in 2016) among children under five.
- Its enormous population and a relatively high under-five mortality rate (U5MR) as an emerging country are key factors.
- As India's achievement in reducing child deaths matters a lot at the global level, it can help shape global child mortality indicators.

India is improving :

- India has shown a consistent decline in mortality rates.
- Introduction of the National Rural Health Mission (NRHM) accelerated this reduction especially in the post neonatal period.
- Recent studies shows that the extent of this reduction is still not enough to achieve the Sustainable Development Goals (SDG)3 goals for the neonatal mortality rate (NMR) and U5MR by 2030.
- 52% of districts in India are unlikely to meet SDG3 to reduce NMR to 12 (per 1000 live births). Similarly, about a third of the districts in India are unlikely to meet U5MR of 25 (per 1000 live births) by 2030.

U5MR in India : Vast differences as we move from region to region

- Unlike many other emerging countries, India exhibits exceptional regional and socio-economic inequality in demographic and health outcomes.
- The U5MR rate for male children varies between 6.3 in the southwest district of the National Capital Territory of Delhi to 141.7 in the tribal dominated district of Rayagada in Odisha (about 22 times).
- In general, the majority of high risk districts for NMR and U5MR are in Assam, Bihar, Chhattisgarh, Jharkhand, Madhya Pradesh, Rajasthan and Uttar Pradesh.
- Yet, the high risk districts in NMR are not limited to poorer States but spread across even rich and advanced States such as Andhra Pradesh, Haryana, Gujarat and

Telangana, particularly for male neonates.

- There are two States in particular, namely, Chhattisgarh and Uttar Pradesh, where 97% of districts are unlikely to meet the SDG targets for both NMR and U5MR (irrespective of gender).

What needs to be done :

- The government should lay emphasis on local level intensive programmes that cater to the specific needs of individual districts or other population subgroups.
- More investment is needed for neonatal health.
- Under the National Health Mission, there are a number of programmes, to maximise their impact, the focus must shift more intensively to how these programmes are executed in low performing districts.
- More awareness to be raised about district level intervention programmes through community based awareness programmes and educating parents about possible high risk factors and preventive measures of child health.
- Priority should be given to the improvement of public health facilities by reinforcing institutional deliveries, filling eligible and trained human resources, making available adequate testing machines and infrastructure at subcentres, primary and community health centres, and district hospitals.
- A longterm solution lies in raising the level of education among girls and mothers especially among the poor, rural and deprived sections of society. Apart from child mortality reduction, it will help in the overall health and development of children.