

POLITY AND GOVERNANCE

- ❖ **More teeth and bigger muscles: ED's lengthening arm**
- ❖ **CONTEXT:** In the eight years from 2014, the Directorate of Enforcement (ED) has investigated 121 prominent politicians and has arrested, questioned, raided, or filed FIRs against 115 major Opposition leaders. By contrast, during the 10 years (2004-14) of the UPA-II government, only 26 leaders were investigated, including 14 from the Opposition. Since the advent of the **Narendra Modi** government, the ED has gone after politicians suspected of corruption with far greater alacrity than other central law enforcement agencies.
- ❖ **PMLA, the ED's sword arm**
 - The ED's aggression has been largely on account of its current Director Sanjay Kumar Mishra (since 2018) and his predecessor Karnal Singh (2015-18) leveraging the massive powers bestowed on the agency by the Prevention of Money Laundering Act (PMLA), 2002.
 - Unlike laws governing other agencies, particularly the CBI, the PMLA allows the ED to take cognizance of any offence under its wide-ranging schedule across the country, with or without the consent of state governments.
 - It has, therefore, been able to register money laundering cases against politicians or activists based on FIRs filed by state police forces — something the CBI is unable to do unless requested by the state government, or ordered by a court or the Central Vigilance Commission (CVC).
 - While the National Investigation Agency (NIA) too has powers to take suo motu cognizance of offences across the country, the schedule of the NIA Act — that is, the types of offences that it can investigate — is limited to about a dozen offences.
 - The schedule of the PMLA on the other hand, has increased from just six offences in 2002 — when the law was enacted — to 30 groups of offences encompassing over 147 provisions now. The ED's sweeping ambit extends from serious crimes such as terrorism to the hunting of wild animals, and from the infringement of copyright to false trademarks.
 - The provisions of the PMLA, which give investigators the power to arrest and attach properties and assets of accused, impose stringent bail conditions, and make a statement recorded before an investigating officer admissible in court as evidence, have made the ED much more powerful than the CBI.
- ❖ **Increasingly stringent**
 - The PMLA's ambit was widened through amendments in 2009, 2013, 2015, and 2019, giving the ED the teeth it now has.
 - In 2009, 'criminal conspiracy' under Section 120B of the Indian Penal Code was added to the PMLA's schedule among various other offences. This has, over the years, allowed the ED to enter any case where a conspiracy is alleged — even if the principal offence is not part of the PMLA schedule. In 2009, the ED also got international jurisdiction as far as tracking laundered money was concerned.
 - Following amendments in 2015 and 2018, the ED was allowed to attach properties in India equivalent to properties acquired abroad through laundered money.
 - Through certain "explanations" inserted into the PMLA in 2019, the government allowed the ED to attach properties earned directly or indirectly through alleged criminal activity that was even "relatable" to a scheduled offence.
- ❖ **Contentious provisions**
 - The PMLA's provisions on admissibility of statements made by the accused as evidence, and the stringent bail provisions have been the most contentious. It is the only Act in the country in which a statement recorded before an investigating officer is admissible in court as evidence. Other laws that contained such provisions, such as TADA and POTA, have long been repealed.
 - The provision for bail stipulates that a magistrate will not grant bail to an accused unless he is convinced that prima facie no case is made out. This provision was struck down by the Supreme Court on the ground that it presupposed the trial at the stage of bail itself. But a larger bench headed by Justice A M Khanwilkar on July 27 2022 upheld the validity of all the provisions of the PMLA, including strict bail conditions in money laundering cases.
 - This has resulted in accused being put behind bars for long periods without bail in offences that attract punishments ranging from two to seven years, literally making the process the punishment.
- ❖ **Bigger and more fearsome**
 - Under Director Mishra, the ED has applied these provisions on suspected offenders with much greater ferocity than before, even as the strength of the agency has increased from the motley group of about 400 officials under the UPA to 1,600 officials now. The ED's sanctioned strength is over 2,000.

- The ED's expanding scope of work is also reflected in the sheer number of cases it has taken up lately. Under the UPA, the ED registered 1,867 cases of money laundering, which involved 112 raids and attachments of properties to the tune of Rs 5,346 crore.
- Under the NDA, according to data available until March 2022, almost double the number of cases — 3,555 — were registered. The number of raids (3,010) was 27 times more, and the value of attachments (Rs 99,356 crore) was 18 times higher than under the UPA.
- Of the 3,555 PMLA cases registered by the ED under the NDA, 3,066 were registered over the last five years, a period in which 2,564 of the 3,010 raids were carried out.
- ED officials say the criticism that the agency is targeting Opposition politicians is baseless because it can only take cognizance of an offence already registered by the CBI or state police.

❖ **Prevention of Money Laundering Act (PMLA), 2002**

- Money Laundering refers to the conversion or misrepresentation of money which has been illegally obtained by unlawful sources and methods.
- It is a criminal offence in India and charges in this instance refer to statutory provisions of the Prevention of Money Laundering Act, 2002.
- The PMLA was enacted in response to India's global commitment (Vienna Convention) to combat the menace of money laundering. These include:
 - United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988
 - Basle Statement of Principles, 1989
 - Forty Recommendations of the Financial Action Task Force on Money Laundering, 1990
 - Political Declaration and Global Program of Action adopted by the United Nations General Assembly in 1990
- The PMLA is applicable to all persons which include individuals, companies, firms, partnership firms, associations of persons or incorporations and any agency, office or branch owned or controlled by any of the above-mentioned persons.

❖ **Enforcement Directorate**

- Directorate of Enforcement is a specialized financial investigation agency under the Department of Revenue, Ministry of Finance.
- In 1956, an 'Enforcement Unit' was formed, in the Department of Economic Affairs, for handling Exchange Control Laws violations under,
- In 1957, this Unit was renamed as 'Enforcement Directorate'.
- ED enforces the following laws:
 - Foreign Exchange Management Act, 1999 (FEMA)
 - Prevention of Money Laundering Act, 2002 (PMLA)

❖ **How ED Functions under PMLA?**

- The ED carries out search (property) and seizure (money/documents) after it has decided that the money has been laundered, under Section 16 (power of survey) and Section 17 (search and seizure) of the PMLA.
- On the basis of that, the authorities decide if arrest is needed as per Section 19 (power of arrest).
- Under Section 50 of the PMLA, the ED can also directly carry out search and seizure without calling the person for questioning.
- It is not necessary to summon the person first and then start with the search and seizure.
- If the person is arrested, the ED gets 60 days to file the prosecution complaint (chargesheet) as the punishment under PMLA doesn't go beyond seven years.
- If no one is arrested and only the property is attached, then the prosecution complaint along with attachment order is to be submitted before the adjudicating authority within 60 days.

PRELIMS

1. **Asia-Pacific Institute for Broadcasting Development (AIBD)**

❖ **CONTEXT: The 47th AIBD Annual Gathering / 20th AIBD General Conference and Associated Meetings held in New Delhi on 19-20 September 2022. India's Presidency of the prestigious Asia-Pacific Institute of Broadcasting Development (AIBD) has been extended for one more year.**

- The Asia-Pacific Institute for Broadcasting Development (AIBD) was established in 1977 under the auspices of UNESCO.
- AIBD is a unique regional inter-governmental organization servicing countries of the United Nations Economic and Social Commission for Asia and the Pacific (UN-ESCAP) in the field of electronic media development.
- Its secretariat is situated in Kuala Lumpur and is hosted by the Government of Malaysia.

- The AIBD is mandated to achieve a vibrant and cohesive electronic media environment in the Asia-Pacific region through policy and resource development.
- The International Telecommunication Union (ITU), the United Nations Development Programme (UNDP), and the United Nations Educational, Scientific Cultural Organisation (UNESCO) and The Asia-Pacific Broadcasting Union (ABU) are founding organizations of the Institute and they are non-voting members of the General Conference.
- Broadcasters from 26 countries in the Asia Pacific region including India are full members of the organization.
- India was elected as President of the Asia-Pacific Institute for Broadcasting Development (AIBD) in 2018 for the duration of two years.
- India has hosted the Governing Council Meetings (GC) in 1978, 1985, 2003 and the latest in 2022

2. **Indo Bangladesh Protocol Route (IBPR)**

❖ **CONTEXT:** The country's longest river cruise service between Varanasi in Uttar Pradesh and Bogibeel in Assam will begin from early 2023, said the Union Minister of Ports, Shipping & Waterways (MoPSW).

- India and Bangladesh have a long standing and time-tested Protocol on Transit and Trade through inland waterways of both countries.
- This Protocol, which was first signed in 1972 (immediately after independence of Bangladesh), is a reflection of shared history and friendship between the two countries.
- It was last renewed in 2015 for five years with a provision for its automatic renewal for a further period of five years giving long term assurance to various stakeholders.
- There are around 10 routes under Indo Bangladesh Protocol (IBP).
- The protocol route uses NW-1 (Ganga) as well as NW-2 (Brahmaputra) on the Indian side.
- Presently, there are six Ports of Call each in India and Bangladesh under the Protocol.
- Five more Ports of Call and two more extended Ports of Call have been added, increasing the number to eleven Ports of Call and two extended Ports of Call in each country .



- Under this Protocol, Inland vessels of both the countries can ply on the designated protocol route and dock at Ports of Call in each country, notified for loading/unloading of cargo.
- There has been significant improvement in the movement of cargo vessels in an organized manner on the Protocol route carrying both the transit cargo to the North East(NE) region of India and vice-versa and export-cargo to Bangladesh.
- The Indian transit cargo is mainly coal, fly-ash, POL and ODC for power projects in the NE region.
- The other potential cargo for movement is fertilizers, cement, food grains, agricultural products, containerized cargo etc.

3. **PM- CARES FUND**

❖ **CONTEXT:** PM chairs meeting of Board of Trustees of PM CARES Fund

- Established in March 2020

- It has been registered as a Public Charitable Trust. To undertake and support relief or assistance of any kind relating to a public health emergency or any other kind of emergency, calamity or distress, either man-made or natural, including the creation or upgradation of healthcare or pharmaceutical facilities, other necessary infrastructure, funding relevant research or any other type of support.
- To render financial assistance, provide grants of payments of money or take such other steps as may be deemed necessary by the Board of Trustees to the affected population.
- To undertake any other activity, this is not inconsistent with the above Objects.
- Prime Minister is the ex-officio Chairman of the PM CARES Fund and Minister of Defence, Minister of Home Affairs and Minister of Finance, Government of India are ex-officio Trustees of the Fund.
- The Chairperson of the Board of Trustees shall have the power to nominate three trustees to the Board of Trustees who shall be eminent persons in the field of research, health, science, social work, law, public administration and philanthropy.
- Any person appointed a Trustee shall act in a pro bono capacity.
- The fund consists entirely of voluntary contributions from individuals/organisations and does not get any budgetary support.
- Donations to PM CARES Fund would qualify for 80G benefits for 100% exemption under the Income Tax Act, 1961.
- Donations to PM CARES Fund will also qualify to be counted as Corporate Social Responsibility (CSR) expenditure under the Companies Act, 2013
- PM CARES Fund has also got exemption under the FCRA and a separate account for receiving foreign donations has been opened.
- The trust deed of PM CARES Fund has been registered under the Registration Act, 1908.

Some other funds

❖ National Disaster Response Fund (NDRF)

- It was established under the Disaster Management (DM) Act of 2005.
- The NDRF is mandated to be accountable and answerable under the RTI Act being a public authority.
- It is auditable by the Comptroller and Auditor General of India.
- The DM Act provided for a Disaster Response Fund — state and district level funds (besides the national level).

❖ Prime Minister's National Relief Fund (PMNRF)

- PMNRF was set up in January 1948 originally to accept public contributions for the assistance of partition refugees.
- It is now used to provide immediate relief to the families of those killed in natural calamities and the victims of major accidents and riots and support medical expenses for acid attack victims and others.
- The PMNRF was originally managed by a committee which included the Prime Minister and his deputy, the Finance Minister, the Congress President, a representative of the Tata Trustees and an industry representative.
- However, in 1985, the committee entrusted the entire management of the fund to Prime Minister, who currently has sole discretion for fund disbursement.
- A joint secretary in the PMO administers the fund on an honorary basis.
- States also have similar Chief Minister's Relief Funds.
- PMNRF provides annual donation and expenditure information without any detailed break-up.

4. Prompt Corrective Action Framework (PCAF)

CONTEXT: RBI removes Central Bank of India from PCA framework

- RBI initiated the Scheme of Prompt Corrective Action (PCA) in 2002.
- In early 2018, there were 12 banks under PCA framework. Of these, 11 were PSBs.
- Due to recapitalization & corrective measures there were only six banks (all PSBs) under the PCA framework as of March 2019.
- Prompt Corrective Action or PCA is a framework under which financial institutions with weak financial metrics are put under watch by the RBI. PCA norm is a supervisory tool and is imposed when a bank breaches certain regulatory thresholds
- Until now, the RBI had imposed PCA only on banks. This is the first time PCA framework is extended to NBFCs.
- The move comes in the wake of large NBFCs such as IL&FS, DHFL, SREI Group and Reliance Capital getting into financial trouble over the last few years.
- The PCA framework for NBFCs comes into effect from October 1, 2022, based on their financial position on or after March 31, 2022.

- The framework will apply to all deposit-taking NBFCs, excluding government companies, and all non-deposit taking NBFCs in the middle, upper and top layers.
- This is a welcome move as it will stop bad lenders from going worse rather than brushing the issue aside.
- Safer NBFCs will translate to a safer overall financial system.
- The PCA framework for NBFCs will be reviewed after 3 years.
- The central bank will track three indicators
 - Capital To Risk-Weighted Assets Ratio (CRAR) - It is bank's available capital expressed as a percentage of a bank's risk-weighted credit exposures.
 - Tier I leverage ratio - It is the relationship between a banking organization's core capital and its total assets.
 - Net Non-Performing Assets (NNPAS) Including Non-Performing Investments (NPIS). NPA are loans for which the principal or interest payment remained overdue for a period of over 90 days
- In the case of core investment companies (CICs), the RBI will track
 - Adjusted Net Worth/Aggregate Risk Weighted Assets.
 - Leverage Ratio
 - NNPA, including NPIS.
- A breach in any of the three risk thresholds under the above mentioned indicators could result in invocation of PCA.

ANSWER WRITTING

Q. Analyse the distinguishing features of the notion of Right to Equality in the Constitutions of the USA and India.

Both the United States and India are the largest democratic countries in the world, based on federalism, in their political structure. Democracy can only thrive and flourish where the individuals in society are treated equally and without discrimination. Thus, it was necessary to incorporate provisions in the Constitution to remove the hurdle of existing social and economic inequalities and enable the diverse communities to enjoy the rights and liberties guaranteed under the Constitution.

The right to equality means the absence of legal discrimination on grounds of caste, race, religion, sex, and place of birth and ensures equal rights to all citizens.

- Right to Equality in India: In India, Chapter III named as “Fundamental Rights” was added in the Constitution by the Constituent Assembly. The Constitution follows both the British model of ‘Equality before Law’ and American model of ‘equal protection of law’ (Article 14). It also provides for both civil-legal as well as socio-economic equality. It also highlights substantive equality. The Constitution also provides for affirmative action to ensure equality (Article 16). It focuses on ensuring equality of outcomes along with equality of opportunity. The right also prevents discrimination and abolishes untouchability (Article 17).
- Right to Equality in the US: The original Constitution did not prevent discrimination. The US derived Right to Equality from Declaration of Rights and the Bill of Rights. It was inserted in the Bill of Rights through fourteenth Amendment in year 1868. The US follows the concept of ‘equal protection of law’ which highlights the equal treatment under equal circumstances. The right majorly emphasises on civil and legal equality.

The Right to Equality is considered a basic feature of both the Constitutions and plays a key role in achieving social and economic justice in our society where upliftment of certain classes is considered necessary for our country to flourish. The emphasis is on the fundamental unity of individuals by providing equal opportunities and treatment to all.

MCQs

1. Consider the following statements regarding Prompt Corrective Action (PCA) Framework
 1. It is a framework under which banks with weak financial metrics are put under watch by the government.
 2. It aims to check the problem of Non-Performing Assets (NPAs) in the Indian banking sector.
 3. PCA is intended to help alert the regulator and only the depositor if a bank is heading for trouble.

Select the incorrect statement using the codes given below.

(a) 1 and 2 only (b) 2 and 3 only (c) **1 and 3 only** (d) All of the above
2. How different is the PM CARES Fund from the PM’s National Relief Fund (PMNRF)?
 1. PMNRF is for all kinds of natural disasters whereas PM CARES fund is specially meant for COVID-19 similar pandemic situations.
 2. PMNRF was managed by a committee which included the Prime Minister, the Congress President and a representative of the Tata Trustees whereas the Prime Minister chairs the PM CARES fund and nominate three eminent persons in relevant fields to the Board of Trustees.
 3. PM’s National Relief Fund get budgetary support while PM CARES fund does not supported by budget.

Which of the statement/s given above is/are correct?

- a) 1 and 2 only b) 2 only c) **1 and 3 only** d) 1 only

3. Consider the following statements with regards to Foreign Exchange Management Act 1999 (FEMA)

1. Under the FEMA there is no need any pre approval from Enforcement Directorate to carry out Forex transactions.
2. Under the FEMA, pre approval and permission are required from RBI to carry out any Forex transactions.

Select the correct statement/s using the codes given below

- a) **1 only** b) 2 only c) Both 1 and 2 d) Neither 1 nor 2

4. Which of the following Acts statutorily mandated to enforce by Enforcement Directorate?

1. Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (COFEPOSA)
2. Foreign Exchange Management Act, 1999 (FEMA)
3. Prevention of Money Laundering Act, 2002 (PMLA)
4. Fugitive Economic Offenders Act, 2018 (FEOA)

Choose the correct statement/s using the codes given below

- a) 1 and 2 only b) 2 and 3 only
c) 3 and 4 only d) **All of the above**

5. Which of the following state/s are associated with National Waterways 1?

1. Uttar Pradesh
2. Jharkhand
3. Bihar
4. West Bengal

Choose the correct statement using the codes given below

- a) 1,2 and 3 only b) 1,3 and 4 only
c) 2,3 and 4 only d) **All of the above**

6. Recently SCALE app often mentioned in news is related to which of the following statement?

- a) To develop start up ecosystem across the country
- b) **For the skilling, learning, assessment, and employment needs of the leather industry**
- c) Learning App under the PM SHIRI Yojna
- d) Daily allotted plot for Street vendors in metro cities

7. With reference to Asia-Pacific Institute for Broadcasting Development (AIBD) consider the followings

1. It is hosted by Malaysian government.
2. India is a full time member to it.

Choose the correct statement using the codes given below

- a) 1 only
b) 2 only
c) **Both 1 and 2**
d) Neither 1 nor 2

8. Consider the following statement/s with regards to Global Registry of Fossil Fuels

1. It is first-of-its-kind database for tracking the world's fossil fuel production, reserves and emissions.
2. The registry has been developed by UN Environment Program

Choose the correct statement/s using the codes given below

- a) **1 only**
b) 2 only
c) Both 1 and 2
d) Neither 1 nor 2

9. Recently a wild Arctic wolf was successfully cloned for the first time in the world and named as Maya by the scientists of which country?

- a) USA
- b) India
- c) UK
- d) China

10. 90–90–90 targets often mentioned in news is related to which of the following disease?

- a) **AIDS**
- b) TB
- c) Monkey Pox
- d) COVID 19