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ANALYSIS**



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**26 JANUARY 2024**

## **1 – Birth anniversary of Pandit Madan Mohan Malaviya:**

### **GS I**

#### **Modern Indian History:**

- **Context:**

- On December 25, 2023, Pandit Madan Mohan Malaviya's 162nd birthday, the Prime Minister is expected to unveil the first volume of the 'Collected Works of Pandit Madan Mohan Malaviya.'

- **About Pandit Madan Mohan Malaviya:**

- Madan Mohan Malaviya's writings, speeches, unpublished correspondence, and other works are included in this bilingual (English and Hindi) compilation.
- Madan Mohan Malaviya was an Indian scholar, politician, and educational reformer who lived from December 25, 1861, to November 2, 1946.
- He led the Indian independence struggle and presided over the Indian National Congress four times as its president. In addition, he founded the Banaras Hindu University and the Akhil Bharat Hindu Mahasabha.

*Source → The Hindu*

## **2 – Veer Bal Diwas:**

### **GS II**

#### **Government Policies and Interventions:**

- **Context:**

- The four sons, Zorawar Singh, Fateh Singh, Jai Singh, and Kulwant Singh, engaged in combat with Aurangzeb, the Mughal emperor, and his army.

- **About:**

- After Zorawar Singh and Fateh Singh successfully repelled a siege on their fort at Anandpur Sahib, they were taken prisoner by the Mughals at the ages of six and nine, respectively.
- They were sent to Sirhind, where they were condemned to death by being bricked alive in 1705 for their refusal to convert to Islam.
- Although Jai Singh and Kulwant Singh were also apprehended at Anandpur Sahib, they were able to flee Sirhind with the assistance of a few devoted supporters. They fought beside their father at Sirhind, where a musket fire wounded him in the end.
- Generations of Sikhs were inspired by the bravery of Guru Gobind Singh's sons as they gave their lives in defence of Sikhism.

*Source → The Hindu*

### **3 - Bills to Repeal British-Era Criminal Laws were recently passed by Parliament:**

#### **GS II**

#### **Government Policies and Interventions:**

- **Context:**
- Three crucial bills, Bharatiya Nyaya (Second) Sanhita, 2023; Bharatiya Nagarik Suraksha (Second) Sanhita, 2023; and Bharatiya Sakshya (Second) Bill, 2023, were recently passed by the Parliament.
- After being introduced in August of 2023, the proposals were referred to a Parliamentary Standing Committee consisting of 31 members.
- **Which are Bharatiya Nyaya (Second) Sanhita, 2023's Principal Provisions?**
- **The Indian Criminal Code, 1860 is replaced by the Bharatiya Nyaya Sanhita (Second) (BNS2), which brings about several important changes, such as:**
- **Retention and Incorporation of Offences:** The BNS2 incorporates new offences such as organised crime, terrorism, and group-related grievous injury or murder, while retaining the old IPC sections on murder, assault, and inflicting hurt. In addition, community service is added as a penalty.

- Acts that endanger national integrity or incite fear among the public are classified as acts of terrorism. The severity of penalties varies from life in jail or death to incarceration plus fines.
- Crimes classified as organised include financial frauds, cybercrime, extortion, abduction, and more. For those who perpetrate or attempt organised crime, there are penalties and sentences ranging from life in prison to death.
- Mob Lynching: Under BNS2, any murder or serious harm committed by five or more people based on a certain group of people's race, caste, or other characteristics is considered a crime that carries a life sentence or the death penalty.
- Sexual Offences Against Women: BNS2 increases the age limit for victims of gang rape from 16 to 18 years old while keeping the IPC provisions on rape, voyeurism, and other offences. It also makes fraudulent sexual activities or false promises illegal.
- Sedition Amendments: BNS2 does away with the sedition offence and substitutes it with penalties for actions pertaining to secession, armed rebellion, or actions that in any way jeopardise the integrity or sovereignty of the country.
- Critics counter that even though the name of the sedition statute was changed from "rajdroh" to "deshdroh," questions about its meaning and implementation still need to be answered.
- Death by Negligence: Under Section 304A of the IPC, the BNS2 increases the penalty for causing death by negligence from two to five years.
- It does state, however, that doctors will still be subject to the lesser sentence of two years in prison if found guilty.
- Supreme Court Compliance: Complies with certain rulings of the Supreme Court by eliminating adultery as a crime and adding life in prison to the death penalty for murder or attempted murder committed by a life sentence prisoner.
- **BNS2 criticism:**
  - Age of Criminal Responsibility Discrepancy: The age of criminal responsibility is still seven years old, yet it may be raised to twelve years old depending on how mature the accused is. This can be against the advice of international conventions.
  - Definitions of kid Offences Vary in Age: Although the BNS2 defines a kid as an individual under the age of 18, there are differences in age requirements for a number of offences against children. For example, disparities exist in the age requirements for crimes such as rape and gangrape.
  - Sedition Provisions and Sovereignty Issues: Although sedition is no longer a crime under the BNS2, some features of it may still be present in relation to situations where India's sovereignty, unity, or integrity are at risk.
  - Retention of IPC Provisions on Sexual Harassment and Rape: The IPC's provisions on sexual harassment and rape are preserved under the BNS2. It disregards the Justice Verma Committee's (2013) recommendations, which include making marital rape a crime and making rape a gender-neutral offence.
- **Which are Bharatiya Nagarik Suraksha (Second) Sanhita, 2023's Principal Provisions?**

- Significant changes are brought about by the Bharatiya Nagarik Suraksha (Second) Sanhita, 2023 (BNSS2), which replaces the Criminal Procedure Code, 1973 (CrPC). These changes include:
- **Detention Conditions:** The BNSS2 modifies the guidelines for undertrials, prohibiting the release of defendants on personal bail in circumstances involving serious offences, such as those involving life imprisonment or several counts.
- **Medical Examination:** It makes the process more accessible by extending the eligibility for medical examination requests to all police officers, not only sub-inspectors.
- **Forensic investigation** is required for offences carrying a minimum sentence of seven years in jail.
- **Experts in forensics** must gather evidence at crime sites while electronically documenting the procedure. States with no forensic resources should make use of those in neighbouring states.
- **Sample Collection:** Goes beyond the CrPC's specimen signatures or handwriting orders to include the ability to obtain voice and finger impressions from those who are not in custody.
- **Timelines:** The BNSS2 establishes stringent deadlines, including five days for medical reports on rape victims, thirty days for judgements (which can be extended to forty-five days), ninety days for victim progress updates, and sixty days for charge framing following the initial hearing.
- **Court Hierarchy:** Magistrates' Courts through the Supreme Court are arranged in a hierarchical manner by the Criminal Procedure Code (CrPC) in India. The BNSS2 does away with the distinction and the function of Metropolitan Magistrates, which was formerly permitted for cities with populations over one million.
- **Reactions to BNSS2:**
  - **Lack of protections and Property Attachment from Crime Proceeds:** The ability to seize property from crime proceeds is not protected by the Prevention of Money Laundering Act, which raises questions about possible abuse or oversight shortcomings.
  - **Limitations on Bail for many offences:** The BNSS2 refuses this privilege to those who are accused of many offences, even though the CrPC permits bail for an accused person detained for half the maximum sentence for an offence.
  - This restriction may restrict opportunities for bail, as it is common in situations involving many sections.
  - **Handcuff Use and Conflicting Supreme Court Orders:** The BNSS2 allows the use of handcuffs in a number of situations, including organised crime, which runs counter to Supreme Court orders.
  - **Integration of Trial Procedure and Public Order Maintenance:** The CrPC's regulations pertaining to maintaining public order are still included in the BNSS2. This begs the question of whether trial processes and maintaining public order should be governed by different laws or under the same one.

- **What are the main features of the 2023 Bharatiya Sakshya (Second) Bill?**
- The Indian Evidence Act of 1872 (IEA) is replaced by the Bharatiya Sakshya (Second) Bill, 2023 (BSB2). Most of the IEA's rules, including as those regarding confessions, the relevance of the evidence, and the burden of proof, are still in place.
- **However, it brings about several important changes, such as:**
- **Documentary Proof:**
  - Definition Expansion: The BSB2 adds electronic records to the list of documents, along with traditional written works, maps, and cartoons.
  - Primary and Secondary Evidence: Original documents, computerised records, and video recordings are all considered primary evidence.
  - These days, admissions made verbally and in writing, as well as the testimony of a qualified witness who has reviewed the records, are regarded as secondary evidence.
  - Oral Evidence: The BSB2 allows for the electronic submission of oral evidence, which means that victims, accused parties, and witnesses can all testify electronically.
  - Admissibility of Electronic Records: Digital or electronic documents have the same legal standing as paper documents.
  - Included in this are data kept in voicemails, emails, server logs, smartphones, computers, and semiconductor memory.
  - Amended Definition of Joint Trials: These cases, which are now classified as joint trials, involve one accused party who is not present or who has not answered to an arrest warrant.
- **Reactions to BSB2:**
  - Admissibility of Information from Accused in Custody: If the information was gathered while the accused was under police custody, it can be admitted under the BSB2, but not if it was obtained outside of it. The Law Commission suggested doing away with this differentiation.
  - Law Commission Recommendations Not implemented: Despite their importance, a number of Law Commission recommendations—such as assuming police liability for injuries suffered by an accused person while in police custody—have not been implemented into the BSB2.
  - Electronic Record Tampering: The Supreme Court has acknowledged the possibility of electronic record tampering.
  - Even while the BSB2 permits such records to be admitted, there are no protections in place to stop them from being contaminated or tampered with while the investigation is underway.

## 4 - Unauthorised Sand Mining:

### GS II

#### Government Policies and Interventions:

- **Context:**

- In a significant operation against illicit sand mining, Bihar police recently detained smugglers of sand.
- This operation, which took place close to the Sone River, represents a major advancement in the ongoing war against strong criminal organisations engaged in illegal sand mining.

- **Sand mining: What is it?**

- **About:**

- The process of recovering valuable minerals, metals, crushed stone, sand, and gravel for further processing from primary natural sand and sand resources (mineral sands and aggregates) found in terrestrial, riverine, coastal, or marine environments is known as sand mining.
- Ecosystems and communities are seriously threatened by this activity, which is caused by a number of circumstances.

- **India's Sand Source:**

- **According to the Sustainable Sand Mining Management Guidelines (SSMMG) 2016, India's sources of sand come from**

- River (both flood plain and riverbed),
- reservoirs and lakes,
- fields of agriculture,
- marine/coastal sand,
- palaeo-channels
- M-Sand, or manufactured sand.
- Elements That Lead to Illegal Sand Mining

- **Absence of Law and Regulation:**

- Illegal sand mining is on the rise due to lax enforcement of regulations and inadequate regulatory frameworks.

- **Strong Requirement for Building Supplies:**

- The building sector's high need for sand fuels is causing illicit extraction, which puts more strain on coastal regions and riverbeds as a result of the growing demand for sand for building projects.
- The demand for sand is rising due to the need for construction brought on by the rapid expansion in population and urbanisation.

- **Influence of the Mafia and corruption:**

- Illegal mining is sustained in part due to organised crime and corrupt tactics within the sand mafia.
- Attempts to regulate and control the sand mining business are hampered by collusion between law enforcement and illicit enterprises.

- **Insufficient Sustainable Remedies:**

- Riverbed sand is used excessively because sustainable alternatives, such as manufactured sand (M-sand), are not as widely used.
- The demand for natural sand is sustained by insufficient promotion of environmentally suitable alternatives, which exacerbates the effects on the ecosystem.
- Poor Execution of Environmental Impact Assessments (EIAs):
- Unauthorised extraction is made possible by the ineffective use of EIAs for sand mining operations.
- The absence of proper public awareness campaigns and monitoring systems makes unlawful mining operations easier to ignore.

- **The effects of mining sand:**

- **Erosion and Disruption of Habitats:**

- Uncontrolled sand mining modifies riverbeds, causing greater erosion, alterations to channel shape, and disturbance of aquatic habitats, according to the Geological Survey of India (GSI).
- The survival of native species acclimated to pre-mining habitat conditions is threatened by the loss of stability caused by sand mining in stream channels.

- **Rising Sedimentation and Flooding:**

- River and coastal area flooding and sedimentation are exacerbated by the loss of sand from river bottoms.
- Aquatic habitats suffer from altered flow patterns and sediment loads, which have an adverse effect on the flora and fauna.



- **Depletion of Groundwater:**

- Sinkholes created by sand extraction may result in a decline in the groundwater level.
- This then has an impact on nearby drinking water wells, causing a shortage of water in the neighbourhood.

- **Loss of Biodiversity:**

- Activities like sand mining cause habitat disruption and degradation, which significantly reduce biodiversity and negatively impact riparian and aquatic species. Mangrove forests are not exempt from the damaging effects.

- **What are India's Initiatives to Stop Sand Mining?**

- Act of 1957 for the Development and Regulation of Mines and Minerals (MMDR Act):
- According to The Mines and Minerals (Development and Regulations) Act, 1957 (MMDR Act), sand is categorised as a "minor mineral," and state governments have administrative authority over minor minerals.
- The government is enforcing regulations to stop unlawful practices in order to prevent illegal mining, as stated in Section 3(e) of the MMDR Act.
- In order to alter the MMDR Act of 1957, the Parliament recently passed the Mines and Minerals (Development and Regulation) Amendment Act, 2023.

- **EIA 2006:**

- All sand mining collection activities must have approval, even in regions less than five hectares, according to a ruling by the Supreme Court of India.
- With regard to plants, animals, and rivers, sand mining has a detrimental effect on the ecosystem, which was addressed by this decision.

- **Guidelines for Sustainable Sand Management (SSMG) 2016:**

- The primary goals of these guidelines, which were released by the Ministry of Environment, Forests, and Climate Change (MoEFCC), are to prevent groundwater depletion, preserve river equilibrium and its natural environment by protecting and restoring the ecological system, and mine in an environmentally and socially responsible manner.

- **Guidelines for Sand Mining 2020 Enforcement and Monitoring:**

- The recommendations offer a standard operating procedure for sand mining monitoring throughout India.
- The recommendations address the source identification, transportation, and final use of sand minerals.
- The standards also take into account the monitoring of the sand mining process through the use of new surveillance technology, like drones and night vision.
- **Sone River:**
  - The second-largest southern tributary of the Ganges is the Sone River, a perennial river in central India.
  - It begins in the vicinity of Amarkantak Hill in Chhattisgarh and travels through the following states: Madhya Pradesh, Uttar Pradesh, Bihar, and Chhattisgarh. At the Amarkantak plateau, it forms waterfalls.
  - It joins the Ganges in the vicinity of Patna, Bihar.
  - North Koel River, Banas, Gopad, Rihand, Kanhar, Ghaghar, Johilla, and Chhoti Mahanadi are among the tributaries.
  - Notable dams are the Rihand Dam in Uttar Pradesh, which is close to Pipri, and the Bansagar Dam in Madhya Pradesh.

*Source → The Hindu*

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