

19 APRIL 2019

**Please in SC on voting rights of under trials and convicts****In news:**

A petition has been filed in Supreme Court challenging the vires of Section 62(5) of the Representation of People Act, 1951 (RP Act), as it prohibits a person confined in a prison from casting her vote.

**In brief:**

The Public Interest Litigation (PIL) petition has been filed by one Aditya Prasanna Bhattacharya, a student from the National Law School of India University, Bangalore.

**Section 62(5) of RP Act reads:**

“No person shall vote at any election if he is confined in a prison, whether under a sentence of imprisonment or transportation or otherwise, or is in the lawful custody of the police:

Provided that nothing in this sub-section shall apply to a person subjected to preventive detention under any law for the time being in force.”

The word “**confinement**” in the section is the yardstick thereby creating several anomalies.

In addition to convicts who have been sentenced to a particular period of imprisonment, even under-trials, whose innocence or guilt has not been conclusively determined, are deprived of their right to vote, as they too are confined in prison, although they have not been sentenced to imprisonment.

The petition highlights how the Section sees both an under-trial and a convicted person equally. The former’s guilt is yet to be proved in a court. A person is innocent until proven guilty by law. Despite this, it denies an under-trial the right to vote but allows a detainee the same.

However, a convict who has been imprisoned as part of her sentence can still cast her vote if she is released on bail. This is because such a person is not per se confined in prison, the petition states.

In 2014, Election Commission of India (EC), once again settled that the Prisoners, both convicts and under-trials, in the country, cannot vote in the elections.

Those who have been detained under the **Goondas Act, National Security Act (NSA) and Conservation of Foreign Exchange and Prevention of Smuggling Activities Act (COFEPOSA)** can cast their votes from prison itself. A ballot paper is sent to the detainee in prison and he can cast his vote. The ballot paper is sent back to the returning officers by the prisons department.

The provision operates in the nature of a blanket ban, as it lacks any kind of reasonable classification based on the nature of the crime committed or the duration of the sentence imposed. This lack of classification is anathema to the fundamental right to equality under Article 14, the petition contends.

Further, the petition also places reliance on the judgment in **ShayaraBano v Union of India[2017]** wherein the Supreme Court reaffirmed the **doctrine of arbitrariness** as the litmus test to determine a violation of Article 14. Since Section 62(5) disenfranchises any person confined in a prison in a manner that is arbitrary, it hits Article 14.

**Note**

The proviso to the provision carves out an exception for detainees, because such persons cannot be said to have committed any crime yet. If this is the case, then this rationale should also apply to under-trials and those detained in civil prisons, as even they cannot be said to be guilty of a crime, the petition states.

The petitioner has also raised violation of **Article 326** of the Constitution submitting that **right to vote is a Constitutional right** under Article 326 of the Constitution, as was held by the Supreme Court in *People's Union for Civil Liberties (PUCL) v Union of India* [2003] and **Rajbala v State of Haryana**[2016].

Almost 70 percent of prison inmates are undertrials and the provision disenfranchises people who have not yet been found guilty effectively taking away the fruits of 'presumption of innocence'.

### Doctrine of Arbitrariness:

It determines the scope of Article 14, where it provides a guarantee against arbitrary State action, whether exercised under authority of law or in exercise of executive power without making of law. The Supreme Court, in *Om Kumar and Ors. vs Union of India*, has laid down the grounds to be followed to challenge an administrative action as arbitrary, where the order of the administrator needs to be examined to see if it is 'rational' or 'reasonable'. The basis of inquiry is "whether the administrator has done well in his primary role, whether he has acted illegally or has omitted relevant factors from consideration or has taken irrelevant factors into consideration or whether his view is one which no reasonable person could have taken."

## Right to Travel Abroad an Important Basic Human Right: SC

### In news:

In a recent order the **Supreme Court** has observed that the right to travel abroad is a genuine and basic human right like marriage and family.

### In brief:

The court was hearing an appeal filed by an IPS officer - Satish Chandra Verma, Inspector General of Police/Principal, Central Training College, Central Reserve Police Force at Coimbatore in Tamil Nadu, who was refused permission to take a private trip abroad to visit relatives as he had a departmental enquiry pending against him. The appeal said he was denied permission despite the fact that he had no criminal case against him.

The Central Administrative Tribunal, Chennai Bench, and the Madras High Court denied him his right. The High Court upheld the tribunal's position that he cannot travel abroad without vigilance clearance.

Supreme Court referred to its **Maneka Gandhi judgment** upholding the right to travel and the landmark U.S. Supreme Court case of 1958 **Kent vs Dulles**, which said, which said "freedom to go abroad has much social value and represents the basic human right of great significance".

SC observed, "The right to travel abroad is an important basic human right for it nourishes independent and self-determining creative character of the individual, not only by extending his freedoms of action, but also by extending the scope of his experience. The right also extends to private life; marriage, family and friendship are humanities which can be rarely affected through refusal of freedom to go abroad and clearly show that this freedom is a genuine human right."

Apex Court bench observed that he has a fundamental right to travel and that right cannot be infringed on the ground that vigilance clearance has not been given.

### Note



The Court also noted that he was earlier permitted to travel to U.S.A. in the year 2017 and he had promptly come back.

Taking note of this, the bench permitted the officer to go to U.S.A. and France between the period 28.04.2019 and 01.06.2019, subject to filing of an undertaking to the Registry that he will come back on 01.06.2019.

### **Maneka Gandhi vs Union of India, 1978:**

This case is a landmark judgement which played the most significant role towards the transformation of the judicial view on Article 21.

Maneka Gandhi was issued a passport on 1/06/1976 under the Passport Act 1967. The regional passport officer, New Delhi, issued a letter dated 2/7/1977 addressed to Maneka Gandhi, in which she was asked to surrender her passport under section **10(3)(c)** of the Act in public interest, within 7 days from the date of receipt of the letter.

A **writ petition** was filed by Maneka Gandhi under **Article 32** of the Constitution in the Supreme Court challenging the order of the government of India as violating her fundamental rights guaranteed under **Article 21** of the Constitution.

Article 21 of the Constitution says, “No person shall be deprived of his life or personal liberty except according to procedure established by law.”

**SC Judgement:** the right to travel and go outside the country is included in the right to personal liberty guaranteed under Article 21. The Court ruled that the mere existence of an enabling law was not enough to restrain personal liberty. Such a law must also be “just, fair and reasonable”.

## **SUSPENSION OF loc TRADE**

### **Why in news?**

- The Ministry of Home Affairs (MHA) on Thursday suspended the cross-Line of Control (LoC) trade in Jammu and Kashmir.



- The Ministry cited the channelling of illegal weapons, narcotics and fake currency” as reasons.

### **Note**



**More on news:**

- A probe by the National Investigation Agency (NIA), the MHA said, suggested that a significant number of concerns engaged in the trade are being operated by persons closely associated with banned terrorist organisations.
- In a major confidence building measure, cross-LoC trade was started in 2008 by setting up two Trade Facilitation Centres located at Uri's Salamabad in Baramulla, and Chakkan-da-Bagh in Poonch.
- The trade took place four days a week. It was based on barter system and zero duty basis.
- It is important to be noted that the Government of India also withdrew the Most Favoured Nation status to Pakistan after the Pulwama attack.

## World Press Freedom Index

**Why in news?**

India has dropped two places on a global press freedom index to be ranked 140th out of 180 countries in the annually released World Press Freedom Index.

**More on news:**

- Norway topped the ranking for the third year in a row.
- Afghanistan (121), UAE (133) and Chad (122) were ranked ahead of India.
- Pakistan dropped three places to 142 and Bangladesh went down four spots to 150.
- The index cited attacks on Indian journalists by the Hindutva followers as the reason for India's dismal performance in the index.

**About World Press Freedom Index:**

- WPI is produced by France-based international non-governmental organization Reporters Without Borders (RWB).
- It ranks performance of countries according to index calculated based upon various parameters.
- These parameters include media pluralism and independence, respect for the safety and freedom of journalists, and the legislative, institutional and infrastructural environment in which the media operate.
- WPI aims to promote and defends freedom of information and freedom of the press.

**Note**

## Helium Hydride Ion (HeH<sup>+</sup>)

### Why in news?

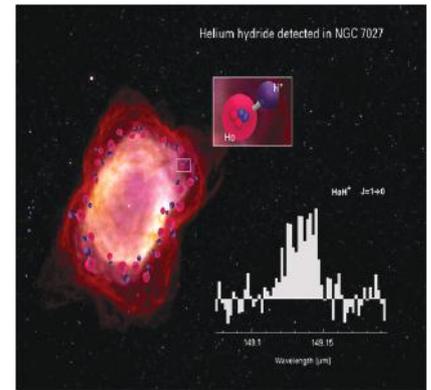
- Recently the German researchers working in the Max Planck Institute for Radio Astronomy (MPIfR) detected the most ancient type of molecule in our Universe, ie- Helium Hydride Ion (HeH<sup>+</sup>).

### More on news:

- They detected this molecule near the planetary nebula NGC 7027.
- They detected using the flying observatory SOFIA.

### About SOFIA:

- SOFIA, the Stratospheric Observatory for Infrared Astronomy, is the largest airborne observatory in the world, capable of making observations that are impossible for even the largest and highest ground-based telescopes.
- It was established in 2010 and is a joint project of NASA and the German Aerospace Centre.



## Genome sequencing (DNA Sequencing)

### Why in news?

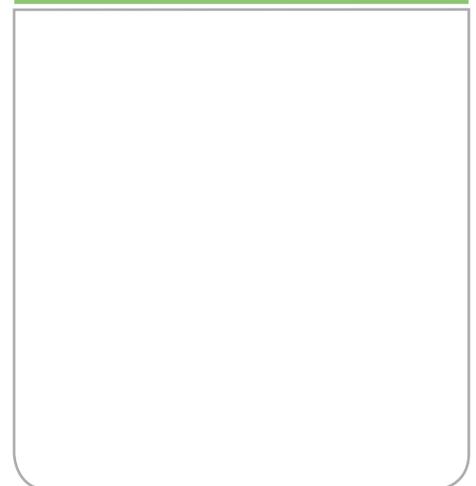
- Council of Scientific and Industrial Research plans to conduct genome sequencing of nearly 1,000 rural youth from the length and breadth of India.
- This project aims at educating a generation of students on the “usefulness” of genomics.

### More on news:

- Globally, many countries have undertaken genome sequencing of a sample of their citizens to determine unique genetic traits, susceptibility (and resilience) to disease.
- At the global level the human genome was first sequenced in 2003 under The Human Genome Project (HGP).
- This is the first time that such a large sample of Indians will be recruited for a detailed study.
- The project is an adjunct to a much larger government led-programme, to sequence at least 10,000 Indian genomes.
- This project is led by the Centre for Cellular and Molecular Biology (CCMB)



### Note



### About Genome Sequencing:

- Genome Sequencing is the process of determining the complete DNA sequence of an organism's genome at a single time.
- This entails sequencing all of an organism's chromosomal DNA as well as DNA contained in the mitochondria and, for plants, in the chloroplast.

### Applications of Genome Sequencing:

- It helps identify changes in genes, associations with diseases and phenotypes, and identify potential drug targets.
- It is used in evolutionary biology to study how different organisms are related and how they evolved.
- In the field of metagenomics, the genome sequencing helps in identification of organisms present in a body of water, sewage, dirt, debris filtered from the air, or swab samples from organisms.
- In medical biology, it is useful in identifying the presence or risk of genetic diseases in patients.
- Genome Sequencing/ DNA sequencing along with DNA profiling is useful in forensic identification and paternity testing.

UNMISS

### Why in news?

- Days just earlier 150 Indian peacekeepers serving with the UN Mission in south Sudan (UNMISS) were honoured with medals of honour by the United Nations for their dedicated service and sacrifice.

About United Nations Mission in South Sudan:

- The United Nations Mission in South Sudan (UNMISS) is the newest United Nations peacekeeping mission for the recently independent south Sudan, which became independent on 9 July 2011.
- It support for peace consolidation and thereby fostering long-term state building and economic development.
- It also supports the Government of the Republic of South Sudan in exercising its responsibilities for conflict prevention, mitigation and resolution and protects civilians.

### UN Peacekeeping Missions and India:

- India is one of the top troop-contributing nations to UN Peacekeeping Missions.
- So far, more than 2 lakh military and police have served under the various peacekeeping missions.
- More than 150 Indian military personnel have lost their lives under the UN flag.
- Currently, India is the second largest contributor of peacekeepers to UNMISS with more than 2,400 military and police personnel currently deployed in the mission.



Note

