

CURRENT AFFAIRS SUPPLEMENT 4

Retention of Defamation as offence in criminal law

Retain defamation as offence in criminal law: Law Commission Report

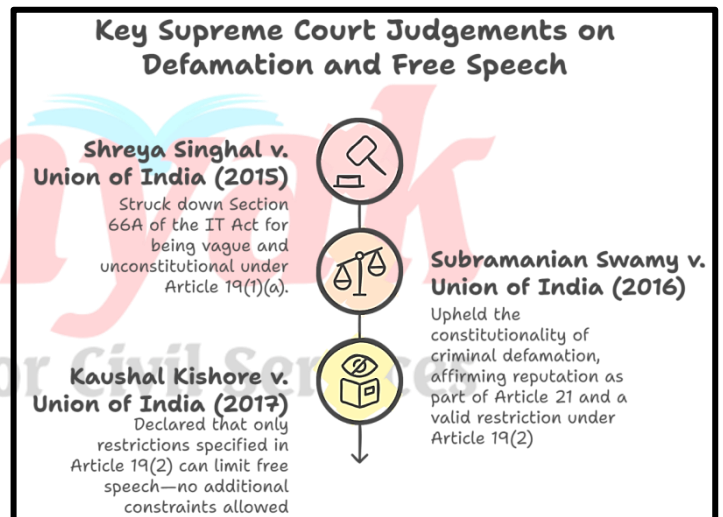
The Law Commission states that it chose to undertake this extensive study on the law of defamation following the Supreme Court's decision in the Subramaniam Swamy vs. Union of India (2016) case.

WHY IN NEWS?

The 22nd Law Commission of India, chaired by Justice Ritu Raj Awasthi, has submitted its 285th Report, recommending the retention of criminal defamation as an offence under India's new criminal laws. This comes in the backdrop of ongoing debates on balancing free speech and the right to reputation, especially in light of recent court cases and legislative reforms.

Understanding Defamation

- **Defamation** refers to “the offence of injuring a person’s character, fame, or reputation by false and malicious statements. It essentially involves communicating false content that damages the reputation of an individual or entity.
- **Types of Defamation: Civil and Criminal**
 - **Civil Defamation is governed by tort law. It includes:**
 - Libel (written or published defamation)
 - Slander (spoken defamation)
 - Remedies typically involve monetary compensation based on the probability of damage.
 - **Criminal Defamation is covered under Section 499 of the Indian Penal Code (IPC).**
 - It defines defamation as any imputation made or published with the intent to harm a person’s reputation.
 - Punishable under **Section 500 IPC** with imprisonment up to two years and/or a fine.
 - Guilt must be established beyond a reasonable doubt.



Provisions in India

- **Under Bharatiya Nyaya Sanhita (BNS), 2023: Section 354(2) states:** “Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both or with community service.”
- **Constitutional Perspective**

- **Article 19(1)(a)** grants the right to freedom of speech and expression. However, Article 19(2) permits the State to impose “reasonable restrictions” in the interest of Defamation, Public order, Decency or morality, etc.

Enemy Property Act, 1968

Pervez Musharraf's ancestral land in UP to be auctioned under Enemy Property Act: What it means

Under The Enemy Property Act, the Indian government can take control of certain “enemy property”. Here's all you need to know.

WHY IN NEWS?

A piece of land in Uttar Pradesh, once belonging to the family of a former Pakistani President, is scheduled for auction under the Enemy Property Act, 1968. This incident has reignited discussions about how enemy properties are identified, managed, and disposed of in India.

Enemy Property Act, 1968

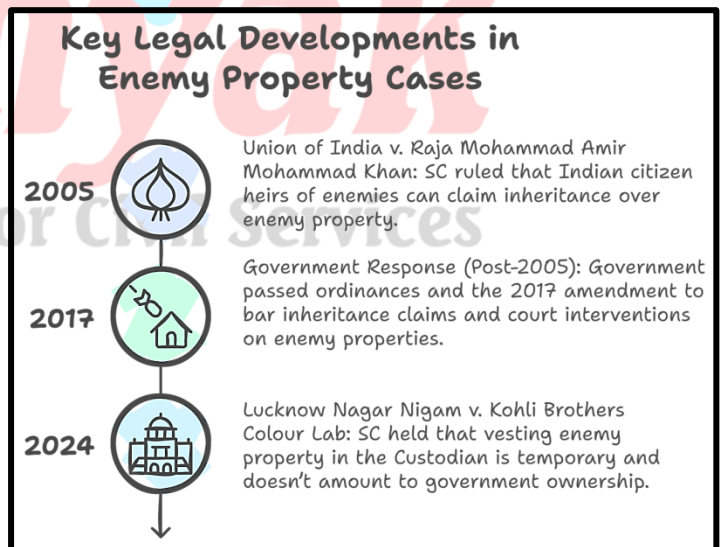
- **Definition of 'Enemy':** An "enemy" is defined as a country (and its citizens) that has committed external aggression against India.

- **Definition of Enemy Property:**

Enemy property refers to any property that is:

- Belonging to, or held by, or managed on behalf of an enemy, enemy subject, or enemy firm.
- These include properties left behind by people who took Pakistani or Chinese citizenship after the Partition (1947) or the Indo-China war (1962).

- **Initial Seizure:** These assets were initially seized under **the Defence of India Rules, 1962**, formulated under the Defence of India Act, 1962. Later, these were formalised through the **Enemy Property Act (1968)**.
- **Background of the Act of 1968:** The Enemy Property Act was enacted post the 1965 India-Pakistan war to manage assets left behind by individuals who migrated to enemy nations like Pakistan and China.
- **Custodian:** The law vests such properties with the Custodian of Enemy Property for India (CEPI), functioning under the Ministry of Home Affairs.



Provisions of the 2017 Amendment

The Enemy Property (Amendment and Validation) Act, 2017 introduced major changes to the original 1968 legislation:

- **Expanded Definition:** The term "enemy subject" now includes legal heirs, regardless of whether they are citizens of India or other countries. It was also applied to successor firms of enemy firms, regardless of partner nationality.
- **Irrevocable Custody:** Enemy property remains vested with the government, irrespective of changes in the enemy's citizenship or nationality.
- **Inheritance Nullified:** Even if an heir is an Indian citizen, they cannot claim ownership of the enemy property.

This amendment overturned earlier interpretations where Indian citizen-heirs had claimed inheritance rights, reinforcing the absolute authority of the government over enemy properties.

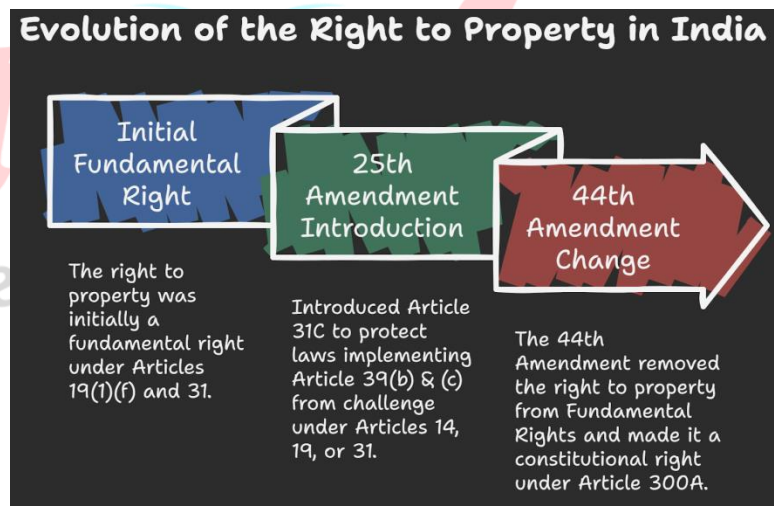
Balancing Right to Property and Directive Principles of State Policy

WHY IN NEWS?

The Supreme Court delivered a landmark nine-judge Bench verdict in the case of Property Owners Association & Ors v. State of Maharashtra in March 2024, clarifying the scope and interpretation of Article 31C and Article 39(b) of the Constitution.

Background of the Case

- The case concerned a 1986 amendment to a Maharashtra law allowing a public housing authority to acquire dilapidated privately-owned buildings in Mumbai. The amendment claimed it was enacted to fulfil the Directive Principles under Article 39(b) of the Constitution, which obligates the State to ensure equitable distribution of material resources for the common good.
- The petitioners contested its constitutional validity, leading to a prolonged judicial journey concluding in 2024.

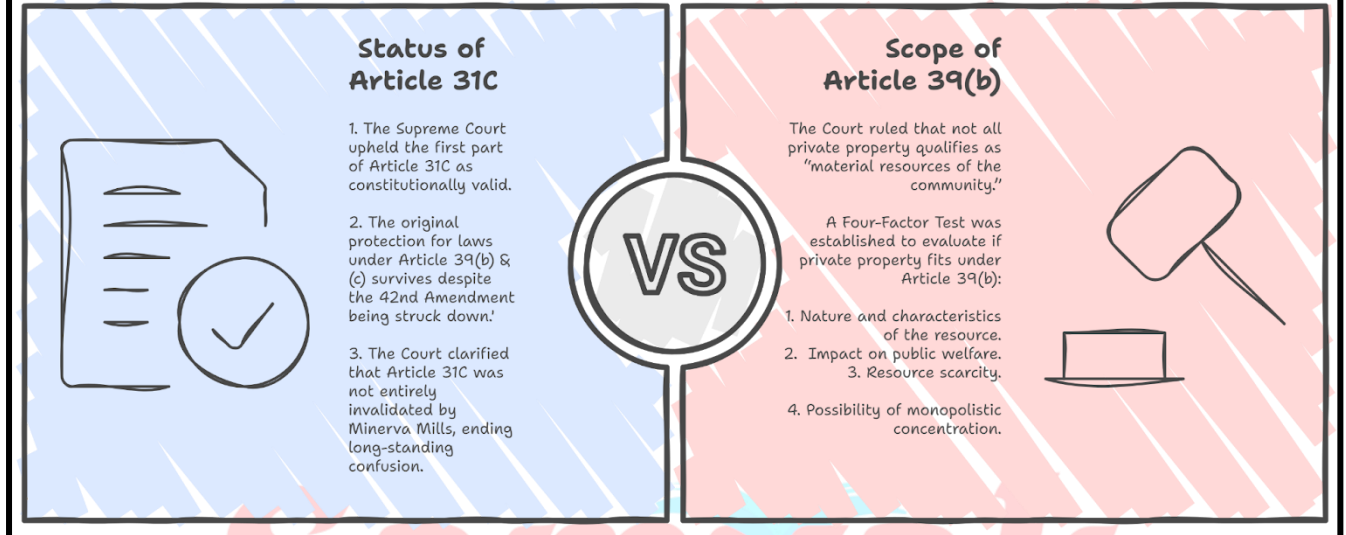


Key Constitutional Provisions Involved

- **Article 31C – Protective Shield for Welfare Laws:** Enacted via the 25th Constitutional Amendment (1971), it stated that laws enacted to implement Articles 39(b) or 39(c) could not be struck down for violating Articles 14, 19, or 31. This gave Parliament a tool to prioritize socio-economic legislation over individual rights where necessary.
- **It had two components:**
 - Protection of such laws from being invalidated on the grounds of fundamental rights.
 - A self-declaration clause, which barred courts from questioning the law's objective if it claimed to enforce Article 39(b)/(c).
- **Article 39(b) – Redistribution of Material Resources:** Mandates the State to ensure that ownership and control of material resources are distributed to subserve the common good

- In 1976, the **42nd Amendment** extended Article 31C to shield all laws made to implement any Directive Principle (not just 39(b) and (c)).
- However, the **Minerva Mills judgment (1980)** ruled this expansion unconstitutional, asserting that Fundamental Rights and Directive Principles must coexist, and DPSPs cannot override the basic structure of the Constitution.

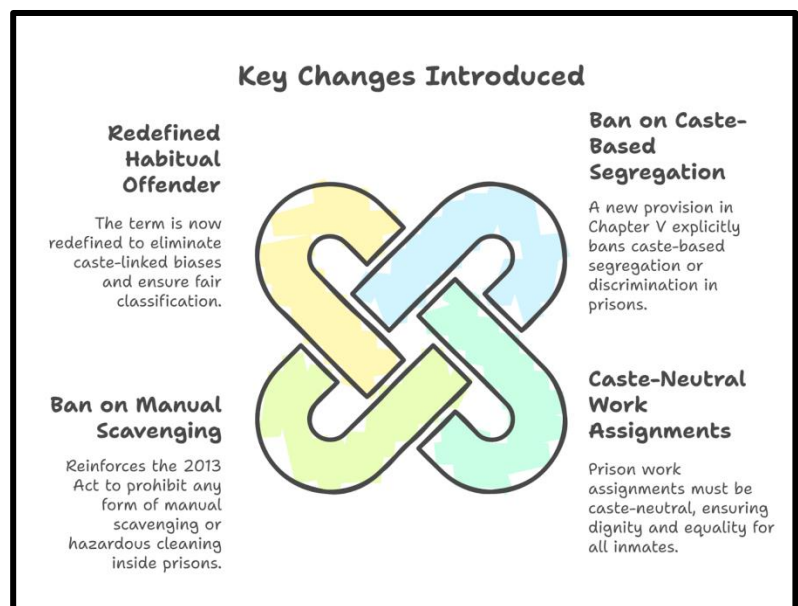
The Current Judgement



Prison Reforms in India

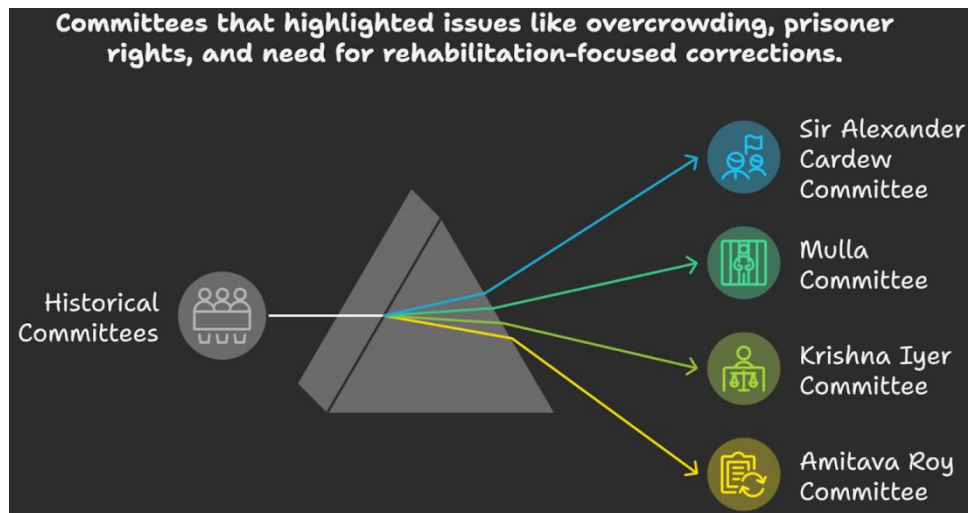
WHY IN NEWS?

- The Ministry of Home Affairs (MHA) has amended the Model Prison Manual, 2016 and Model Prisons and Correctional Services Act, 2023 to eliminate caste-based discrimination in prisons, following a Supreme Court judgment dated October 3, 2024.
- Indian prisons have long had institutional practices where caste hierarchies influenced prisoner duties, especially in assigning menial and sanitation tasks.
- The Supreme Court judgment called for the removal of all such discriminatory practices and jail manual provisions that reinforced caste bias.



About Prisons

- **Constitutional and Administrative Framework**
 - **State Subject:** The management of prisons falls under the State List (Entry 4), placing responsibility on individual state governments.
 - **Legal Framework:** Governed primarily by the Prisons Act, 1894, along with state-specific prison manuals.
 - **Reform Initiative:** The Model Prisons Act, 2023, developed by the Ministry of Home Affairs, aims to modernize outdated colonial-era prison laws.



Key Features of Model Prisons Act, 2023

- **Incentivizing good behaviour by granting parole, furlough, and remission to prisoners**
 - **Parole:** Temporary release based on conditions and good conduct; not applicable to convicts of multiple murders or terrorism-related offences. **It is not a matter of right**
 - **Furlough:** A periodic leave granted to long-term prisoners; counts as a sentence remission.
- **Inclusive and Secure Infrastructure**
 - **Gender Sensitivity:** Dedicated facilities for women and transgender inmates to ensure dignity and safety.
- **Use of Technology**
 - **Virtual Access to Courts:** Provision for video conferencing to streamline legal procedures.
 - **Scientific Management:** Encourages digital monitoring and technological tools for prison administration.

Integration of New Criminal Laws with ICJS 2.0

WHY IN NEWS?

The Ministry of Home Affairs has directed the National Crime Records Bureau (NCRB) to ensure full implementation of the three new criminal laws through the Inter-operable Criminal Justice System 2.0 (ICJS 2.0). This move aims to digitally integrate all pillars of the criminal justice system and improve transparency, speed, and efficiency in case management and investigations across India.

Inter-operable Criminal Justice System 2.0

- **Origin:** ICJS was envisioned by the e-Committee of the Supreme Court and is executed under the Ministry of Home Affairs.
- **Core Goal:** Facilitating seamless digital integration between the five pillars of criminal justice: Police, Courts, Prisons, Prosecution, and Forensics.
- **Key Focus Areas:**
 - Linking CCTNS with e-Courts and e-Prisons
 - Incorporating Forensic Labs, Fingerprint Databases, and Prosecution Systems
- **“One Data, One Entry” Principle:** Ensures data is entered once and shared across all pillars for efficiency and accuracy.
- **Executing Agencies:** Joint implementation by **NCRB** and **NIC** (National Informatics Centre).
- **Timeline:**
 - **Phase-I:** 2018–2022; focused on stabilizing individual IT systems and enabling record search across them
 - **Phase-II:** 2022–2026 (current) ; adopts the ‘one data, one entry’ approach — data entered once is auto-shared across all pillars of the criminal justice system, eliminating redundancy.

National Crime Records Bureau (NCRB)



Establishment

NCRB was established in 1986 under the Ministry of Home Affairs as a central crime data repository

It assists investigators by maintaining and analyzing crime data.

Purpose



Background

Formed based on recommendations of the National Police Commission (1977–1981) and the MHA Task Force (1985).

Publishes the ‘Crime in India’ report annually.(published since 1953).

Publications



Recent Initiative

Hosted the 2nd CCTNS Hackathon and Cyber Challenge (2020-21) to promote tech-based innovations in policing.

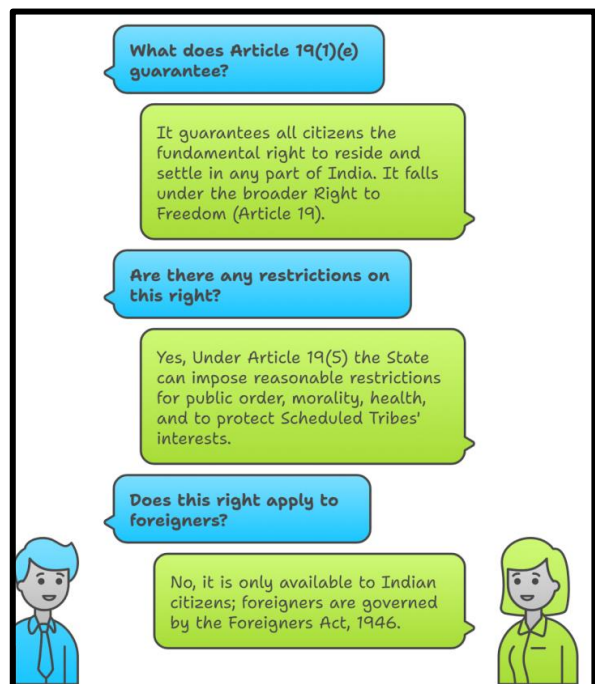
Right to reside

WHY IN NEWS?

The Delhi High Court ruled that a foreigner cannot claim the right to reside and settle in India under Article 19(1)(e) of the Constitution, while hearing a habeas corpus petition regarding Azal Chakma.

About the Case

- Azal Chakma was apprehended at IGI Airport in October 2022 while trying to travel to Dhaka using an illegally obtained Indian passport. Authorities noted that he had previously exited India using a Bangladeshi passport in 2016 and possibly re-entered illegally via a porous border. His Indian passport was revoked in June 2023, and the Bangladesh High

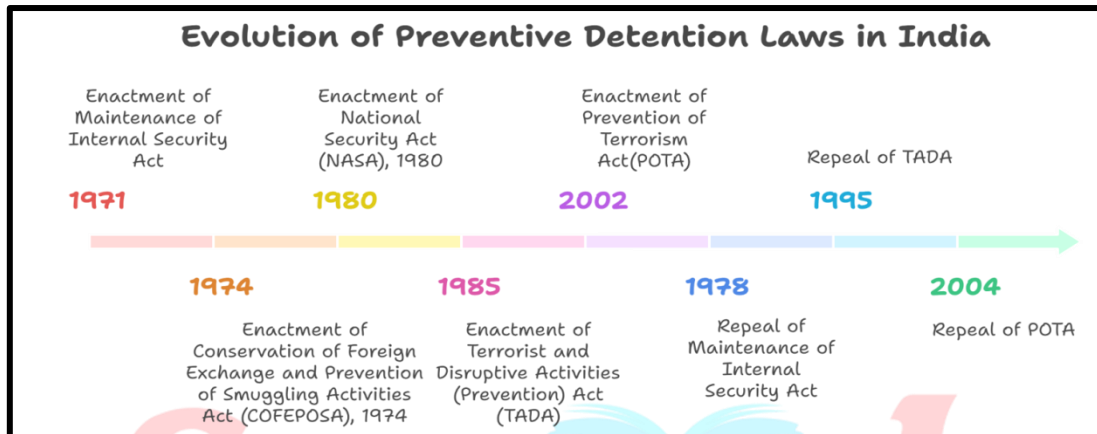


Commission issued travel documents for his deportation.

New guidelines governing preventive detention

WHY IN NEWS?

The Supreme Court of India, in the case of Jaseela Shaji vs Union of India (2024), issued new guidelines governing preventive detention, emphasizing the need to protect personal liberty and ensure non-arbitrary exercise of State power. The ruling came in the context of a detention under the COFEPOSA Act, 1974, previously upheld by the Kerala High Court.



What is Preventive Detention?

- Preventive detention refers to detaining an individual without trial to prevent the commission of an offence in the future.
- It is distinct from punitive detention, which follows conviction after a judicial trial.
- **Legal Backing:** Enshrined under **Article 22** of the Indian Constitution, preventive detention is legally permitted but tightly regulated.
- **Article 22 – Two-Tier Protection:**
 - **For Ordinary Detention:** Right to be informed of arrest grounds; Right to consult legal counsel; Right to be produced before a magistrate within 24 hours.
 - **For Preventive Detention:**
 - Detention beyond 3 months requires advisory board approval (board includes HC judges).
 - The 44th Constitutional Amendment (1978) aimed to reduce preventive detention without advisory board review from 3 to 2 months. This amendment has not been enforced, so the 3-month duration still applies.
 - Right to representation exists but public interest may limit information disclosure.
 - **Parliament and State Legislatures can enact preventive detention laws:**
 - Parliament has exclusive authority for laws related to defence, foreign affairs, and national security.
 - Both Parliament and States can legislate for public order and essential services.

Key Highlights of the Supreme Court Judgment


1. **Right to a Fair Opportunity:** The Court ruled that detainees must be provided with all documents relied upon by the detaining authority. Failure to furnish these documents invalidates the detention order.
2. **Protection under Article 22(5):** The judgment reiterated that denial of such documents violates Article 22(5), which mandates communication of grounds for detention and opportunity for representation.
3. **Communication in Understandable Language:** Authorities must ensure that detainees receive documentation in a language they comprehend, ensuring meaningful exercise of their rights.
4. **Avoidance of Delay:** Use of modern communication technologies is advised to ensure timely information delivery and reduce administrative delays.

Inner Line Permit (ILP)

WHY IN NEWS?

The Manipur government has formed a state-level committee to review the implementation of the Inner Line Permit (ILP) system, following a major violation involving 29 individuals who were issued ILPs without adhering to the prescribed guidelines.

Inner Line Permit (ILP)



- The Inner Line Permit (ILP) is a travel document mandated by the Government of India to regulate the entry of Indian citizens into specific tribal-dominated regions of certain Northeastern states.
- It aims to safeguard the cultural, social, and land rights of indigenous populations by restricting free movement of outsiders (non-residents) into these regions.

Bengal Eastern Frontier Regulation (BEFR), 1873

- Introduced by the British colonial administration, this regulation laid the legal foundation for the ILP system.
- It established an "Inner Line", beyond which the entry of non-locals was restricted to protect the tribal way of life.
- The main objective was to prevent exploitation and land alienation of tribal communities.

Who Needs an ILP?

- Indian citizens who are not permanent residents of these ILP states require permission before entry.
- ILP is not applicable to foreigners; they require a separate type of permit, i.e., Protected Area Permit (PAP).

Entity Locker

WHY IN NEWS?

The **Ministry of Electronics and Information Technology (MeitY)** has launched the **Entity Locker**, developed by the **National eGovernance Division (NeGD)**, as part of India's expanding **Digital Public Infrastructure (DPI)** ecosystem. The initiative is geared towards improving **ease of doing business** and **streamlining regulatory compliance**.

Unlock the Benefits of Entity Locker



Cost savings through optimized document handling



Simplified sharing with authorities, Entities etc.



Lowers the risk of documents loss



Enhanced document security



What is Entity Locker?

- Entity Locker is a cloud-based, secure digital repository designed for businesses, startups, corporations, and MSMEs.
- It enables the real-time storage, retrieval, and sharing of verified documents across integrated government platforms.

Core Features

- **Secure Cloud Infrastructure:** Provides encrypted digital storage to safeguard sensitive business documents.
- **Integration with Key Government Agencies:**
 - Seamlessly connects with:
 - Ministry of Corporate Affairs (MCA)
 - Goods and Services Tax Network (GSTN)
 - Directorate General of Foreign Trade (DGFT)
 - Other regulatory and compliance bodies
- **Authentication & Access Control**
 - Employs Aadhaar-authenticated, role-based access
 - Ensures secure and accountable sharing of documents using digital signature-based authentication