

DECEMBER DAILY CURRENT AFFAIRS - 7 th December -2019

VISHNUIAS.COM

WE PROVIDE A PATH FOR YOUR SUCCESS

CURRENT AFFAIRS

A MAGAZINE FOR CIVIL SERVICES PREPARATION

(Welcome To Vishnu IAS online)

(Research and Training Institute for the best civil services preparation in India)

(https://t.me/DXwwrxOX_Z_cG8V3lnblaQ telegram page link.)

www.vishnuias.com

UPSC

General Studies

Mr. Vishnu Vardhan
Anthropology

Online Video Classes Test Series Free Demo Classes

vishnuvardhan@vishnuias.com (+91-7702170025)



vishnuvardhan@vishnuias.com (+91-7702170025)

INDEX



Target GS prelims 2020 With Ant...

1,364 members

telegram page logo

- 1) Everything about mercy plea of president (GS-2 polity)

- 2) Unnao case.....(GS- 2 - polity)

- 3) Retributive justice.....(GS-2polity/governance)

- 4) Climate warnings (GS -3- environment)

- 5) China imposes 'reciprocal' restrictions on U.S.diplomats(GS -2- IR)

- 6) TRANSGENDER BILL(IN - DETAIL)

vishnuvardhan@vishnuias.com (+91-7702170025)

vishnuvardhan@vishnuias.com (+91-7702170025)

1) A-Z of mercy pleas



Why in news?

The Union Home Ministry sent to President Ram Nath Kovind the recommendation of the Delhi government rejecting the mercy plea of one of the convicts in the 2012 Nirbhaya gang-rape case.

On a different note, President Ram Nath Kovind said that the Rape convicts under the Protection of Children from Sexual Offences (POCSO) Act should not be allowed mercy petition.

Procedure of Mercy Petition in the Indian Constitution

After the award of the death sentence by a sessions (trial) court, the sentence must be **confirmed by a High Court to make it final**. Once confirmed, the condemned convict has the option of appealing to the Supreme Court. Where the condemned prisoner is unable to **appeal to the Supreme Court** or where the court either refuses to hear the appeal or upholds the death sentence, the prisoner also has the option of submitting a '**mercy petition**' to the **President of India (under Article 72) or the Governor of the State (under Article 161)**.

In **Dhananjay Chatterjee alias Dhana v State of West Bengal, 1994 case**, the Supreme Court has said that "The power under Articles 72 and 161 of the Constitution can be exercised by the Central and State Governments, not by the President or Governor on their own". Hence, the advice of the appropriate Government binds the Head of the state.

President's pardon/rejection/delay is also subjected to **judicial review**. Delay in deciding mercy plea is a relevant ground for commuting death sentence to life imprisonment. This is what happened in the **Shatrughan Chauhan vs Union of India case**. The Supreme Court has also directed all prison authorities to give a gap of 14 days between intimation of

vishnuvardhan@vishnuias.com (+91-7702170025)

rejection of mercy petition to the condemned prisoner and his actual execution. In this time period the convict can seek judicial redress of grievances against rejection of mercy plea. Also note that if the President grants an unfair pardon, SC can overrule it.

12 guidelines issued by the Supreme Court on mercy plea (in Shatrughan Chauhan vs Union of India)

1. Solitary Confinement: (only in last 14 days)
2. Legal Aid:
3. Procedure in placing the mercy petition before the President:
4. Communication of Rejection of Mercy Petition by the Governor:
5. Communication of Rejection of the Mercy Petition by the President:
6. Death convicts are entitled as a right to receive a copy of the rejection of the mercy petition by the President and the Governor.
7. Minimum 14 days notice for execution:
8. Mental Health Evaluation:
9. Physical and Mental Health Reports:
10. Furnishing documents to the convict:
11. Final Meeting between Prisoner and his Family:
12. Post Mortem Reports:

Grounds of Appeal

- In his/her mercy petition, the person concerned is required to state the grounds upon which he/she requests for the grant of pardon.
- These grounds may not have any value in the eyes of law for exonerating the accused person from the offence, but they may play an important role in the release of the person by the President.
- The grounds, such as the convicted person is the **only bread earner of the family or the physical fitness of the convict, his age or even the law was quite harsh or the court by chance committed any mistake or error inadvertently**, may be taken into consideration at the time of disposal of the mercy petition.
- Supreme Court in **Kehar Singh v Union of India**, 1988 case reiterated its stand and held that the grant of pardon by the President is an act of grace and, therefore, cannot be claimed as a matter of right by the convict.

Constitutional provisions:

Article 72 provides the pardoning power to the President of India, it says: •The President shall have the power to **grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute** the sentence of any person convicted of any offence

- in all cases where the punishment or sentence is by a Court-martial;
- in all cases where the punishment or sentence for an offence against any law relating to a matter to which the executive power of the Union extends;
- in all cases where the sentence is a sentence of death.

Article 74(1) provides the President with only one opportunity to return the 'recommendation' for the decision to be reviewed. If no change is made, the President has to sign his assent.

The Constitution doesn't have any maximum time-limit within which a mercy petition has to be decided. There have been instances of mercy petitions lying with the President for over a decade without any decision being taken. The MHA can't ask the President to speed up the process. Similarly, a mercy petition may get delayed at MHA or state level too.

Article 161

provides that the Governor of a State shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence against any law relating to a matter to which the **executive power of the State extends**.

Difference between the pardoning power of President and Governor

- Death sentence**: President can pardon the death sentence but the Governor has no power to pardon the death sentence.
- Court-martial**: The President can pardon in case of Court-martial. But the Governor cannot pardon in the court-martial.
- Jurisdiction**: President exercises his judicial powers for the punishment which is given under the law made by the Union. Whereas the Governor exercises his judicial powers for the punishment which is given under the law made by the State.

HOW PRESIDENTS HAVE ACTED ON MERCY PLEAS

Based on data collated by the Law Commission, here's how India's presidents have dealt with mercy petitions:

- Rajendra Prasad accepted 180 mercy pleas and rejected just one.
- Sarvapalli Radhakrishnan allowed 57 mercy petitions while rejecting none.
- Zakir Hussain did not send a single man to the gallows, accepting 22 mercy pleas.
- VV Giri too did not reject a mercy petition, and accepted three pleas.
- Fakrudhin Ali Ahmed and N Sanjeeva Reddy did not deal with any mercy petitions in their tenures.
- Zail Singh rejected 30 mercy petitions, allowing just two.
- R Venkatraman holds the record of rejecting the highest number of mercy pleas - 45. He allowed five petitions.
- SD Sharma did not hand out a single commutation, rejecting 18 pleas for mercy.
- KR Narayanan kept all mercy petitions pending.
- APJ Kalam ruled on just two pleas, rejecting one and accepting the other.
- Pratibha Patil commuted 34 mercy petitions and rejected five
- Pranab Mukherjee rejected 30 mercy petitions and allowed four.

On June 03, 2018 President Ram Nath Kovind Rejected First Mercy Plea Of Man Who Burnt 7 People Alive

The Law Commission in its 2015 report noted the influence a president has on deciding mercy petitions, saying, "A careful observation of mercy petitions disposed by Presidents suggests that a death-row convict's fate in matters of life and death may not only depend on the ideology and views of the government of the day but also on the personal views and belief systems of the President."

Some relevant terms:

Pardon: The president can totally absolve/acquit the person for the offence and let him go free like a normal citizen.

Commute: To reduce the type of punishment into a less harsh one. For example Rigorous imprisonment to simple imprisonment.

vishnuvardhan@vishnuias.com (+91-7702170025)

Remission: To reduce the punishment without changing the nature of the punishment. For example 20 years rigorous imprisonment to 10 years rigorous imprisonment.

Reprieve: A delay is allowed in the execution of a sentence, usually a death sentence for a guilty person to prove his innocence.

Respite: Reduce the degree of punishment looking at specific grounds like pregnancy, old age etc.

Note: A Court-martial is a trial in a military court of a member of the armed forces who are charged with breaking military law.

Session Court: District court is referred to as sessions court when it exercises its jurisdiction on criminal matters under the Code of Criminal procedure (CrPc).

2) A-Z of Unnao Rape case



Why in news?

The Unnao rape victim, who was beaten up, stabbed and then burnt alive by five men on Thursday is battling for life on ventilator with 90 per cent burns. She told her family that she doesn't want to die and wants to see the accused sentenced to death.

All the five accused Harishankar Trivedi, Ram Kishore Trivedi, Umesh Bajpai, Shivam and Shubham Trivedi were arrested hours after the incident. The five men also included

vishnuvardhan@vishnuias.com (+91-7702170025)

the two, Shivam and Shubham Trivedi who were accused of raping the woman in December 2018.

She had filed a case against the two in March this year. Shubham, who was in jail in connection with the rape case, was released on bail on November 30, 2019 and started trying to attack her since then

.•National Commission for Women (NCW) has taken suo motu cognizance of the case and wrote to Uttar Pradesh DGP, OP Singh, seeking a report on action taken at the earliest.

Brief timeline:

June 4, 2017: 17-year-old Dalit girl allegedly raped by BJP MLA Kuldeep Singh Sengar who is a Thakur, a four-time legislator who represents Bangermau in the Uttar Pradesh Assembly.

April 3, 2018: The victim's father was beaten up by some persons allegedly at the behest of Sengar and arrested along with them under Arms Act.

April 8: The victim tries to immolate herself outside CM Yogi Adityanath's residence, alleging police inaction, after which the incident comes to light.

April 9: The victim's father dies in custody allegedly owing to police torture after he was arrested.

April 13: BJP MLA Kuldeep Singh Sengar arrested.

December, 2018: FIR lodged against the victim and her family for allegedly submitting forged age proof to show her as minor at the time of incident.

July 4, 2019: The victim's uncle convicted in a 19-year-old case and sentenced to 10 years jail term on a case filed by Sengar's brother, Atul Singh.

July 17: The victim and her family write a letter to the Chief Justice of India Ranjan Gogoi expressing threat and danger to their lives allegedly by Sengar and his men.

July 28: An over-speeding truck rams into the car in which the victim, her family and their lawyer were travelling, killing her two aunts, leaving the victim and the advocate critically injured.

July 29: FIR registered at Gurubuxganj police station in Raebareli, against Sengar and 9 others in connection with the road accident.

July 30: The victim's letter to CJI comes into light.

July 31: SC takes cognisance of the letter, seeks report from its secretary general on delay in placing it before bench.

August 2: The Supreme Court transfers five cases of crimes committed against the rape survivor and her family from a CBI court in Lucknow to its counterpart in Delhi and orders the State government to pay her ₹25 lakh as interim compensation.

Oct 11, 2019: The CBI told a Delhi court that the Unnao rape survivor was allegedly kidnapped and raped for nine days at different places by three people in 2017 when she was a minor.

The case is different from the alleged sexual assault of the woman by expelled BJP MLA Kuldeep Singh Sengar in 2017. In its charge sheet, the probe agency has named three people -- **Naresh Tiwari, Brijesh Yadav and Shubham Singh** -- as accused for the offences under sections 120B (criminal conspiracy), 363 (kidnapping), 366 (abducting or inducing woman to compel her for marriage), 376 D (sexual assault by more than one person) of the Indian Penal Code and sections 3 and 4 (penetrative sexual assault and punishment) of the Protection of Children from Sexual Offences (POCSO) Act. The CBI said further investigation is going on in the case regarding the role of other accused persons.

Seeing through caste prism:

There are allegations that the victim was mainly targetted and was made to go through series of several hardships for being Dalit, whereas the accused being from higher castes (Thakur/Trivedi) Society is not apathetic enough to let a young Dalit woman down by the system designed to protect them. This is the failure of empathy, the dissuading of a family's rights, the compromise of the security of little girls and women based on what religion, caste or creed they come from. This is the sheer mockery of equality replaced with fake jingoism.

Way forward: The **Justice Verma Committee Report**, which was filled with fantastic ideas on how to make cohesive policy changes to help improve the terrible condition of women's safety in India, should be implemented in its whole spirit.

vishnuvardhan@vishnuias.com (+91-7702170025)

3) Retributive justice



Punishments must reinforce people's faith in the rule of law, BUT it should not undermine it.

The heinous rape and murder of a veterinarian in Hyderabad in late November shook the collective conscience of India and resulted in an outcry for justice for the victim and outrage over the persisting lack of safety for women in public spaces.

The police are required to find the culprits with alacrity and the judiciary to complete the legal process without undue delay. The killing of the four accused of the rape and murder of the veterinary doctor by the Cyberabad police raises disturbing questions. **The police claim that two of the accused snatched their weapons and fired at them when the four had been taken to the crime scene to reconstruct the sequence of events late after midnight, and that they killed them in selfdefence.**

The National Human Rights Commission has deputed a factfinding team to Hyderabad to probe the incident. The jubilation seen on social media platforms and on the streets over the killings by the police stems from the public anger and anguish over the burgeoning crimes against women.

In terms of registration and chargesheeting of sexual crimes by police and addressing the pendency in court of such cases, there has been greater awareness and improvement in both the policing and judicial process following the horrific bus gangrape in December 2012 in New Delhi.

Existing laws on sexual crimes and punishment need better application, but a recourse to brutal retribution as suggested unwisely by many is no solution.

On the contrary, the political sanction of “**encounter killings**” to deliver swift retribution would only be a disincentive for the police to follow due process and may even deter them from pursuing the course of justice.

justice to the victims, bending the law in such cases would only undermine people’s faith in the criminal justice system.

Background:-

The **root word of retribution is "tribution:" in Latin this means "I pay back"** and has a similar meaning to paying a debt that is owed. When retributive justice is applied, a type of retribution, a criminal in essence pays his or her debt to society and suffers some type of punishment in return.

Retributive justice is not personal it's a matter of the law. It holds that there is no delight at the suffering of another, but procedural standards must be put into motion when a crime is committed.

4) Climate warnings

Planned emission cuts fall short of what needs to be done to contain global warming Justice.



vishnuvardhan@vishnuias.com (+91-7702170025)

Two important reports of the **Intergovernmental Panel on Climate Change (IPCC)**, on the **impact of higher global temperatures on land, oceans and the cryosphere**, lend further urgency to the task before countries now meeting in Madrid for the UN conference. UN Framework Convention on Climate Change have been trying to finalise measures under **Article 6 of the Paris Agreement to commodify carbon emissions cuts, and to make it financially attractive to reduce emissions.**

The international community decide on actions to reduce greenhouse gas emissions and are worried that even under the most optimistic scenarios, human health, livelihoods, biodiversity and food systems face a serious threat from climate change.

The case of oceans and frozen areas on land, accelerated rates of loss of ice, **particularly in Greenland, the Arctic and the Antarctic, will produce a destructive rise in sea levels; increase in tropical cyclone winds, rainfall and extreme waves, combined with relative sea level rise, will exacerbate catastrophic sea level events.**

The health of fish stocks, What is particularly significant for countries with a long coastline, including India, is that local sea level anomalies that occurred once in a

century may become annual events, due to the projected global mean **sea level rise over the 21st century.**

This is an alarming scenario for **the 680 million residents of low lying coastal areas, whose population may go up to one billion by 2050**, and for those living in small islands.

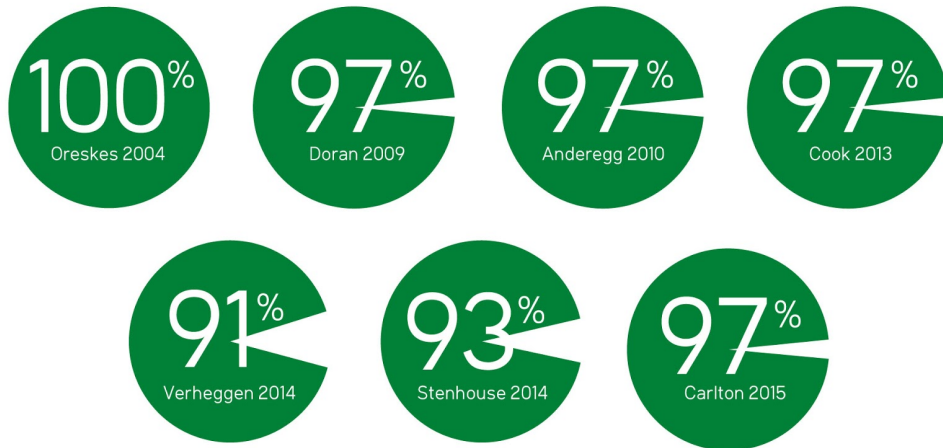
Differentiated Responsibilities and Respective Capabilities, and recognising that rich countries reduced the carbon space available to the poor.

The developed world will be focusing in Madrid on creating a global system of accounting for emissions reductions, introducing credible carbon markets, and making some of the gains from these markets available to developing nations to invest in green energy.

High degree of certainty on losses that will arise from climate change, there must be steady progress on addressing damage.

Nationally Determined Contributions filed under the Paris Agreement fall short and need augmenting. **There is a yawning gap between planned emissions cuts, and what needs to be done by 2030 to contain global temperature rise at 1.5°C.**

Studies into scientific agreement on human-caused global warming



Back ground:-

Understanding the root cause of climate change took many decades of painstaking research. Here, as a major **United Nations-sponsored climate change summit begins in Katowice, Poland, Paul Parsons traces** severe flood warnings, mass evacuations – desperate measures as a three-metre-high wall of water bears down on a densely populated coastline.

This happened in **November 2007 in England, when a huge storm surge welled in the North Sea then smashed into the country's east coast.**

According to **NASA, 2005 was the warmest year we've seen since records began. Malaria has been reported in Nairobi, Kenya as the city's high altitude becomes warm enough for mosquitoes carrying the disease to survive there.**

February 2007, the **Inter- governmental Panel on Climate Change (IPCC)** published an Assessment Report that concluded that the world will see a probable **temperature rise of between 1.8 and 4 degrees Celsius by the end of the century.**

Swedish chemist took the theory further. **Svante Arrhenius noticed that the gas carbon dioxide (CO2) was especially good at trapping heat radiation.** He soon realised what this meant: that the massive increases in atmospheric CO2, caused by coal burning during **the industrial revolution, would fuel Fourier's greenhouse effect and lead to global warming of the planet.**

vishnuvardhan@vishnuias.com (+91-7702170025)

5) China imposes 'reciprocal' restrictions on U.S. diplomats



They have been told to notify the Foreign Ministry before meeting local officials

Chinese Foreign Ministry spokeswoman **Hua Chunying** during a press briefing in Beijing. **China said it had taken "reciprocal" measures against U.S. diplomats in the country, ordering them to notify the Foreign Ministry before meeting with local officials.**

China had notified the U.S. embassy of the new measures, she said were a "countermeasure" to Washington's decision in October to restrict Chinese diplomats.

its mistakes and revoke the relevant rules," she told reporters at a press briefing. Washington called the move "reciprocal", with a senior State Department official citing the inability of U.S. diplomats to meet with a range of Chinese officials and academics.

U.S. diplomats would have to notify the Foreign Ministry five working days in advance. China's move to restrict **U.S. diplomats comes as tensions between Washington and Beijing spike over human rights issues**

High tensions :-

U.S. President Donald Trump signed a law that supported pro-democracy protests in Hong Kong, which has been rocked by nearly six months of often violent unrest demanding greater autonomy – which Beijing has frequently blamed on foreign influence.

U.S. lawmakers also voted to pass a Uighur rights Bill, which could impose sanctions against senior Chinese officials over the crackdown on Muslim Uighurs in Xinjiang.

6) (TRANSGENDER BILL - 2019)



A person may be considered to be a transgender person if their gender identity is inconsistent or not culturally associated with the sex they were assigned at ..

Transgender community is among one of the most marginalized communities in the country because they don't fit into the stereotypical categories of gender of 'men' or 'women'. Consequently, they face problems ranging from social exclusion to discrimination, lack of education facilities, unemployment, lack of medical facilities and so on. The Bill shall empower the transgender community socially, educationally and economically.

The Bill will benefit a large number of transgender persons, mitigate the stigma, discrimination and abuse against this marginalized section and bring them into the mainstream of society. This will lead to inclusiveness and will make the transgender persons productive members of the society.

Thawar Chand Gehlot, Minister of Social Justice and Empowerment on November 20 moved the Bill for consideration and passage in Rajya Sabha that was passed by Lok Sabha on August 5, 2019.

History and background

1. The Ministry of Social Justice and Empowerment with transgender persons in August 2013. In this background, Tiruchi Siva of the Dravida Munnetra Kazhagam party

vishnuvardhan@vishnuias.com (+91-7702170025)

introduced a **private member's bill** in the Rajya Sabha, namely the Rights of Transgender Persons Bill 2014.

2. In 2014, the Supreme Court of India delivered its judgment in **National Legal Services Authority v. Union of India (also known as, NALSA v. UOI)**, in which it recognised the rights of the transgender persons in India and laid down a series of measures for securing transgender persons' rights by mandating prohibition of discrimination, recommending the creation of welfare policies and reservations for transgender persons in educational institutions and jobs.

3. The judgment in NALSA v. UOI also noted the presence of transgender persons in India throughout its history, and made reference to the **hijra**, kinnar, and jogta communities, spread across the country and beyond in the Indian **subcontinent**

4. However, the 2018 bill stood lapsed. Following the constitution of the Lok Sabha, post the 2019 general elections, the bill was reintroduced on 19 July 2019 by the Minister of Social Justice and Empowerment, **Thawar Chand Gehlot**. The bill was passed by a voice vote in the Lok Sabha on 5 August 2019.

State provided benefits for trans gender..

1. The Bill prohibits the discrimination against a transgender person, including denial of service or unfair treatment in relation to education, employment, healthcare, access to, or enjoyment of goods, facilities, opportunities available to the public, right to movement, right to reside, rent, or otherwise occupy property, opportunity to hold public or private office, and access to a government or private establishment.

2. The Bill also seeks to provide rights of **health facilities to transgender persons including separate HIV surveillance centres, and sex reassignment surgeries.**

3. The Bill also has a provision of certificate of identity for a transgender person by making application to the District Magistrate for a certificate of identity, indicating the gender as 'transgender'.

Highlights of the Bill:

1. The Bill aims to stop discrimination against a transgender person in various sectors such as education, employment, and healthcare. It also directs the central and state governments to provide welfare schemes for them.

vishnuvardhan@vishnuias.com (+91-7702170025)

2. The Bill states that a person will be recognised as transgender on the basis of a certificate of identity issued through the district screening committee. This certificate will be a proof of identity as transgender and confer rights under this Bill.
3. Going by the bill, a person would have the right to choose to be identified as a man, woman or transgender, irrespective of sex reassignment surgery and hormonal therapy.
4. It also requires transgender persons to go through a **district magistrate and “district screening committee” to get certified as a transperson.**
5. The committee would comprise a medical officer, a psychologist or psychiatrist, a district welfare officer, a government official, and a transgender person.

Criticisms:

1. The Bill is silent on granting reservations to transgender persons.
2. The bill has prescribed punishments for organised begging. However, the Bill doesn't provide anything to better to condition in those areas, it doesn't provide for reservation.
3. The Transgender Bill does not mention any punishments for rape or sexual assault of transgender persons as according to **Sections 375 and 376 of the Indian Penal Code**, rape is only when a man forcefully enters a woman.

Need of the hour:

The Bill must recognise that gender identity must go beyond biological; gender identity is an individual's deep and personal experience. It need not correspond to the sex assigned at birth. It includes the personal sense of the body and other expressions such as one's own personal inducing proceeds.

vishnuvardhan@vishnuias.com (+91-7702170025)

