

### MISUSE OF SECTION 498A OF THE INDIAN PENAL CODE (IPC).

#### Context

- Recently, the Allahabad High Court, while allowing two **criminal revisions** pertaining to a **dowry case**, took cognisance of the **misuse of Section 498A** of the Indian Penal Code (IPC), proposed certain safeguards and directed the State authorities of Uttar Pradesh to take the necessary steps for their implementation in a given time period.
- The **Malimath committee** in 2003 has also noted that the "general complaint" of Section 498A of the IPC to be subjected to gross misuse.

#### Background

- **Misuse of dowry provisions:** The High Court expressed its concern over the growing tendency of dowry victims to rope in the husband and all his family members using general and sweeping allegations.
- **HC powers:** The High Court (using its inherent powers under Section 482 CrPC) can quash a criminal proceeding which is not compoundable (after a settlement is reached between the opposing parties).
- **Scepticism related to HC directions:** The question is whether the High Court was well within its jurisdiction to issue such directions when the scheme of investigation under the CrPC was clearly laid down and there was no ambiguity about or gaps in the law on arrest, inviting such a fresh interpretation.

#### About Section 498A of IPC

- The incorporation of section 498A was done by the Indian Parliament in 1983 as a **criminal law**.
- It was aimed at preventing cruelty committed upon a woman by her husband and her in-laws by facilitating rapid state intervention.
- It is defined that if the husband or the relative of the husband of a woman, subjected such woman towards cruelty then they would be punished with imprisonment for a term which might extend to **3 years** and may also be **liable for fine**.

- Section 498 A of Indian Penal Code is one of the greatest rescues for **Violence against Woman (VAW)**, which is a reflection of the pathetic reality of the domestic violence occurring within the four walls of a house.

### Possible solutions to check misuse

- In order to check false cases of dowry and avoidable incarcerations, following solutions seem plausible as follows:
- **Adherence to guidelines:** The police must strictly enforce the Supreme Court's directions issued in **Arnesh Kumar vs State of Bihar (2014)** and ensure that there is sufficient reason and credible material against the accused person to necessitate arrest.
- **Training and sensitization:** The investigating officers must be imparted rigorous training with regard to the principles stated by the Court relating to arrest.
- **Departmental investigation:** The wrong-doers also need to be punished departmentally.
- **Bailable offence:** The legislature may deliberate upon and make Section 498A IPC bailable.
- **Legislative action:** The legislature can amend and make the offence under Section 498A IPC compoundable so that a compromise could be arrived at with or without the permission of the competent court. This will not only save cost to the parties in dispute but also the High Court's valuable time.
- **Institutional support:** Once the **Mediation Bill, 2021** is enacted, the institutional mediation mechanism may also help in settling the matrimonial dispute through the **civil route**.

### Conclusion

- Till the time any such amendment is made or law is enacted, the law of the land needs to be enforced strictly by both the police and the courts, without any dilution. Any such directions which do not emanate from the provisions of law, are likely to be struck down by the Supreme Court again.

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## INDIA READY TO FACE CYBER THREAT: SHAH

### In News:

- While addressing the National Conference on Cyber Safety and National Security, Union Home Minister said that Cybersecurity is linked to national security.

## **Institutional set up for Cyber Security in India**

- **National Security Council Secretariat (NSCS)**
  - NSCS is the apex agency looking into the political, economic, energy and strategic security concerns of India.
  - National Cyber Security Coordinator (NCSC) works under NSCS and coordinates with different agencies at the national level for cyber security matters.
- **National Information Board (NIB)**
  - NIB is entrusted with the responsibility of enunciating the national policy on information security and coordination on all aspects of information security governance in the country.
  - NIB is headed by the National Security Advisor (NSA).
- **National Cyber Coordination Centre (NCCC):**
  - NCCC will be set up by CERT-In and will function under the NIB.
  - Some of the components of NCCC include a cybercrime prevention strategy, cybercrime investigation training, review of outdated laws, etc.
- **National Crisis Management Committee (NCMC):**
  - NCMC, headed by the Cabinet Secretary, is an apex body for dealing with significant crisis incidents that have severe or national ramifications.
  - It will also deal with national crisis arising out of focused cyber-attacks.
- **CERT-IN (Indian Computer Emergency Response Team)**
  - CERT-In is a functional organisation to secure Indian cyberspace.
  - It monitors Indian cyberspace and coordinates alerts and warning of imminent attacks and detection of malicious attacks.
- **National Critical Information Infrastructure Protection Centre (NCIIPC):**
  - In January 2014, the Department of Information Technology (DIT) issued a notification announcing the creation of a specialised body to protect India's CIIs.
  - The NCIIPC was placed under the National Technical Research Organisation (NTRO).

## **Various Ministries involved in Cyber Security**

- **Ministry of Home Affairs (MHA):** Ministry of Home Affairs issues security guidelines from time to time to secure physical infrastructure.
  - Until 2013, cybersecurity fell under the purview of the Home Ministry.
- **Ministry of Defence:** It is the nodal agency for cybersecurity incident response concerning Defence sector.
  - It has also formed the Defence CERT where primary function is to coordinate the activities of services/MoD CERTs.
- **The Ministry of Electronics and Information Technology (MEITY)**
- **The Ministry of External Affairs (MEA)** – It has its own cyber security units to deal with international security, counter terrorism and others.

## **Key highlights of the speech**

- **More online presence increases the chance of cybercrimes**
  - There has been a 231-per cent increase in internet connections in the last eight years and India's data cost per GB has come down by about 96 percent.
  - As many as 40 crore users are expected to be added by 2025 to the existing base of 80 crore Indians with online presence.
  - As a result, cybercrimes such as malware and phishing attacks, targeted hits on critical infrastructure, data thefts, online frauds and child porn, etc may increase.
- **Presented cybercrime statistics**
  - Union Home Minister said that 3,377 such cases were reported in 2012, and the corresponding figure was 50,000 in 2020.
  - An average 136 cybercrime cases were registered every day in 2020.
  - The number of cybercrimes per 1 lakh population also increased by 270 per cent in four years from 2016
- **Cyber security is linked to National security**
  - Many countries have created their own cyber armies.
  - These armies are used to attack on critical infrastructure such as banking, power stations etc.
- **Need for critical information security**

- Both data and information are going to become a huge economic force in the coming days.
- Hence, India needs to prepare itself for security of data and information.
- **India is fully alert of all kinds of cyber threats**
- He assured that India is fully alert of all kinds of cyber threats.
- It is upgrading its systems which operate under the umbrella of the Indian Cyber Crime Coordination Centre (I4C).
- I4C falls within the purview of MHA's cyber and information security (CIS) division.
- The CIS division was created by the government in 2017.

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## IMF HOLDS TALKS IN LANKA AS CABINET OKS AMENDMENT TO CUT PREZ POWER

### In News:

- Sri Lankan Cabinet has approved the 21<sup>st</sup> Amendment to the Constitution aimed at empowering Parliament over the executive President.
- The bill will now be tabled in the Parliament soon.

### In Focus: Economic Crisis in Sri Lanka

#### Background:

- Sri Lanka is facing the double whammy of rising prices and high debt, and its people are bearing the brunt of it as the domestic situation turns increasingly grim.
- In September 2021, Sri Lanka declared a state of Economic Emergency for the Supply of Essential Foods.
- It allowed the government to take control of the supply of basic food items, and set prices to control rising inflation, which spiked to 14.2% in January.
- Thousands of protesters have come out on the roads demanding a resignation of President Gotabaya Rajapaksa for the mismanagement of the economy.

#### Factors Responsible for the Economic Crisis of Sri Lanka

## Covid 19 Pandemic

- Tourism industry which represents over 10% of the country's GDP and brings foreign exchange reserve was severely hit
- It also led to production shortages and logistical bottlenecks.

## Increase in foreign exchange rate

- With the supply of foreign exchange drying up, the value of the Sri Lankan rupee started depreciating which made the imports costlier
- The island nation imports a large part of its food supplies. So, the price of food items has risen in tandem with the depreciating rupee.

## Push for Organic Agri-Products

- Sri Lanka wants to become the first country in the world with an agriculture sector that is 100% organic. Govt has banned the use of chemical fertilisers in farming.
- This has further aggravated the crisis by dampening agricultural production.

## Role of Speculators

- Speculators are causing the rise in food prices by hoarding essential supplies.

## India provides helping hand

- India sent a shipment of 11000 MT of rice ahead of the New Year celebration by the people of Sri Lanka.
- India had already extended a \$1 billion credit facility to Sri Lanka, which will ensure that the government can procure food, medicines, and other essential commodities.
- This was following a previous \$500 million line of credit in February 2022 to help it purchase petroleum products.
  - In addition to this, India has already supplied 270000 MT fuel to Sri Lanka.
- In November 2021, India had given 100 tonnes of nano nitrogen liquid fertilizers to Sri Lanka.
- RBI has extended a currency swap of \$400 million and deferred payments owed by the central bank of Sri Lanka worth several hundred million dollars.

## News Summary

- An International Monetary Fund (IMF) team began bailout talks in Sri Lanka, as the country's **cabinet cleared a constitutional amendment to dilute presidential powers.**
  - Sri Lanka suspended payment on \$12 billion of foreign debt in April 2022.
  - Now, it is seeking up to \$3 billion from the IMF to put its public finances on track and access bridge financing.
  - Hence, IMF team is holding talks with PM Ranil Wickremesinghe on how to structure, what will be Sri Lanka's 17th loan plan with the global lender.

## Key Highlights of the 21<sup>st</sup> Amendment

- **Likely to reduce the Presidency to a ceremonial position**
  - The amendment is likely to reduce the Presidency to a ceremonial position.

- It will retain the powers of the President on all three-armed forces.
- Almost all other key powers pertaining to governance and cabinet ministers will be handed over to the Prime Minister.
- In essence, the bill seeks to abolish the presidential system of governance.
  - The presidential system of governance is in existence in Sri Lanka since 1978.
- **No personal discretion of President**
  - According to the proposal, the President has no personal discretion in appointing or dismissing the Prime Minister.

## **20th Amendment to Sri Lanka's Constitution**

- The 20th amendment (20A), which replaced the 19th Amendment (19A) had again enhanced the executive powers of the President in an unprecedented way.
- The 20<sup>th</sup> amendment:
  - abolished the independent constitutional council for a Parliamentary Council.
  - gave electoral rights to dual citizens.
  - reduced the Prime Minister's role to a ceremonial one.
  - abolishes the binding limitations on presidential powers in relation to key appointments to independent institutions through the Constitutional Council.
- It gave sweeping powers to the President to appoint individuals to key institutions.

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## **SC TO EXAMINE LAW ON RIGHTS OF JAILED NETAS TO VOTE IN RAJYA SABHA, COUNCIL POLLS**

### **In News:**

- The Supreme Court (SC) of India recently refused to hear pleas from two former Maha Vikas Aghadi (MVA) ministers, to be released and vote in the Maharashtra Legislative Council elections.
  - The two ministers are in judicial custody on money laundering charges,

- However, the SC stated that it would consider whether some exceptions could be made through judicial interpretation to allow jailed MLAs and MPs to vote in Rajya Sabha and Legislative Council elections.

## **The right to vote for the prisoners:**

- **Right to vote in India:**

- The Indian Constitution (under **Article 326**) has granted the right to vote to all Indian citizens of sound mind above the age of 18, irrespective of an individual's caste, religion, social or economic status.
- Voting is not a fundamental right, but is a legal right granted to citizens. This right is universally granted to all Indians, with a few exceptions.

- **Right to vote for the prisoners in India:**

- As per the Prisoner Security Act, 1894, a prisoner is any person who is kept in the prison for either being suspected of any crime committed by him/her or is undergoing punishment for any unlawful act.
- The right to vote for such a person is mentioned under the Representation of the Peoples Act (RPA), 1951. Section 62 of the RPA basically talks about the people who are exempted from this process of election and are deprived of this "right to vote".
  - Section 62(5) of the RPA states that no person confined in prison or in the lawful custody of police shall be allowed to vote and the right to vote should not be denied to the person who is in custody for preventive detention.

- **Interpretation of Indian Judiciary:**

- In 1997, the SC upheld the constitutionality of Section 62 of the RPA, ruling that it is not a right conferred under Article 14 of the Indian Constitution and is subject to legislative limitations.
- Also, the right to vote cannot be considered a fundamental right.
  - So, the denial of the right to vote for prisoners is not a violation of Article 21 and Article 14 of the Indian constitution.
- In another case, the petitioner demanded the quashing of Section 62(5) of the RPA on the grounds that it is violative of the basic structure of the Indian constitution.



- In this case, the SC held that the right to vote is neither a constitutional right nor a fundamental right, but is a statutory right and can be limited by statute.
- Please note that, Supreme Court, in People’s Union for Civil Liberties (PUCL) vs. Union of India (2003), had held that the Right to Vote is a constitutional right.

## Key Highlights

- **Arguments made in favor of voting**
  - Disallowing the two sitting MLAs from exercising their constitutional right to vote would be akin to depriving the people of their constituency of expressing their say in the election of legislative council members.
  - If that is the case, they should not be imprisoned at all because the people of their constituencies are denied a voice on the floor of the assembly.
- **Stand of the court**
  - The bench stated that it was rejecting the request for interim relief (permission to go out of jail and vote).
  - It did, however, issue a notice to the state and Union governments on the issue of allowing imprisoned MLAs and MPs to vote in Rajya Sabha and MLC elections.

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## WHY IS SINGLE-USE PLASTIC BEING BANNED IN INDIA FROM JULY 1?

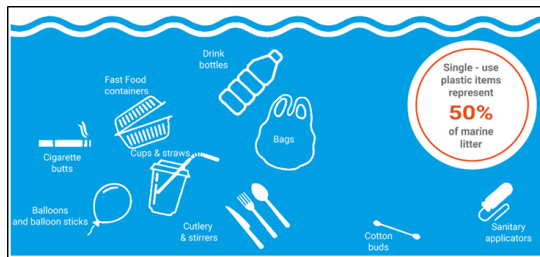
### In News:

- The Central government has announced a ban on single-use plastic from July 1, 2022.

### In Focus: Single-use plastics (SUP)

- Single-use plastics are goods that are made primarily from fossil fuel-based chemicals (petrochemicals) and are meant to be disposed of right after use.
- Single-use plastics are most commonly used for packaging and serveware such as bottles, wrappers, straws, and bags.
- A 2021 report by an Australian organization said single-use plastics account for a third of all plastic produced globally, with 98% manufactured from fossil fuels.
- Single-use plastic also accounts for the majority of plastic discarded – 130 million metric tons globally in 2019.

## Why is it bad?



- Petroleum based plastic is not biodegradable and usually goes into a landfill where it is buried or it gets into the water and finds its way into the ocean.
- Although plastic will not biodegrade (decompose into natural substance like soil) it will degrade (break down) into tiny particles over the years.
- In the process of breaking down, it releases toxic chemicals (additives that were used to shape and harden the plastic) which make their way into our food and water supply.
- On the current trajectory of production, it has been projected that single-use plastic could account for 5-10% of greenhouse gas emissions by 2050.

## SUP in India

- India used 18.45 million tonnes of plastic in the year 2018, according to industry estimates. The plastic produced in the same time period was 17 million tonnes.
- According to a TERI report, published in 2018, average per capita consumption of plastic in India is about 11kgs. It would increase to 20 kgs by 2022.
- Only 60% of the total plastic waste is being recycled.
  - Plastic Waste Management Rules 2016 mandated the producers and brand owners to devise a plan in consultation with the local bodies to introduce a collect-back system.
    - This system is known as the Extended Producers Responsibility (EPR).
  - However, collection efficiency is poor in India.

## News Summary:

- The Ministry for Environment, Forest and Climate Change had issued a gazette notification in 2021, announcing the ban on single-use plastic.
  - The ban includes manufacture, import, stocking, distribution, sale and use of single use plastic items.
- The ban will come into effect from July 1, 2022.

- The Central Pollution Control Board (CPCB) has defined the list of items that will be banned from the above-mentioned date.

- Items included in the banned list are – plastic sticks, cutlery items, packing/wrapping films, etc.

### **How will the ban be enforced?**

- The ban will be monitored by the CPCB from the Centre, and by the State Pollution Control Boards (SPCBs) that will report to the Centre regularly.
- Directions have been issued at national, state and local levels — for example, to all petrochemical industries — to not supply raw materials to industries engaged in the banned items.
- Local authorities have been directed to issue fresh commercial licenses with the condition that single-use plastic items will not be sold on their premises.
  - Existing commercial licenses will be cancelled if they are found to be selling these items.
- Those found violating the ban can be penalized under the **Environment Protection Act 1986** – which allows for imprisonment up to 5 years, or a penalty up to Rs 1 lakh, or both.

### **Other measures taken by the Government:**

- The Ministry had already banned polythene bags under 75 microns in September 2021, expanding the limit from the earlier 50 microns.
- From December 2022, the ban will be extended to polythene bags under 120 microns.
  - The ban is being introduced in phases to give manufacturers time to shift to thicker polythene bags that are easier to recycle.
- According to the **Plastic Waste Management Rules, 2016**, there is also a complete ban on sachets using plastic material for storing, packing or selling gutkha, tobacco and pan masala.
- **Bangladesh** became the first country to ban thin plastic bags in 2002.
- **New Zealand** became the latest country to ban plastic bags in July 2019. **China** issued a ban on plastic bags in 2020 with phased implementation.
- As of July 2019, 68 countries have plastic bag bans with varying degrees of enforcement.