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DAILY NEWS DIARY

Of

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FOR PRELIMS AND MAINS

Warm Greetings.

- DnD aims to provide every day news analysis in sync with the UPSC pattern.
- It is targeted at UPSC – Prelims & Mains.
- Daily articles are provided in the form of Question and Answers
 - To have a bank of mains questions.
 - And interesting to read.
 - Providing precise information that can be carried straight to the exam, rather than over dumping.

Enjoy reading.

THE HINDU - TH
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ESSAY PAPER

EDITORIAL

Q- Analyse how India missed an opportunity to develop the home-grown jurisprudence on patent law?

INTRODUCTION = The patent system is notorious for its bipolar nature. Ever since its inception, public opinion has been divided about the usefulness of the system. There have been regular calls for its abolition. The lack of unanimity about the system here was seen in the way Indian parliamentarians deliberated on patent bills in the past –

- 1. Most of the significant amendments to the Patents Act since 1970 came through, not by way of an Act passed by Parliament, but through an ordinance.**
- 2. Just as we pushed through amendments to the Patents Act through ordinances in 1994 and 2005, we have now accorded the IPAB a similar burial.**
- On April 4, the President of India signed the Tribunals Reforms (Rationalisation and Conditions of Service) Ordinance, 2021, shutting down the IPAB and many other tribunals for good.**

- The Tribunals Reforms (Rationalisation and Conditions of Service) Ordinance, 2021 was promulgated on April 4, 2021. It dissolves certain existing appellate bodies and transfers their functions (such as adjudication of appeals) to other existing judicial bodies (see Table 1). A Bill with similar provisions was introduced in Lok Sabha on February 13, 2021 and is currently pending.

Table 1 : Transfer of functions of key appellate bodies as proposed under the Ordinance

Acts	Appellate body	Proposed entity
The Cinematograph Act, 1952	Appellate Tribunal	High Court
The Trade Marks Act, 1999	Appellate Board	High Court
The Copyright Act, 1957	Appellate Board	Commercial Court or the Commercial Division of a High Court*
The Customs Act, 1962	Authority for Advance Rulings	High Court

The demise of the Intellectual Property Appellate Board (IPAB), India's specialist tribunal for determining disputes relating to intellectual property (IP) rights, is symbolic of its tenuous life. For an organisation that was created in haste and managed in haste, the end came about, unsurprisingly, in haste.

Analysis –

Established under the Trade Marks Act of 1999, its jurisdiction was later extended to hear patent cases after the Patents (Amendment) Act of 2002.

Before which appeals from the Intellectual Property Office (IPO), rectification and revocation applications were heard by the various High Courts. Though the patents side of the IPAB existed in theory since 2002, the Central government notified its functioning only in April 2007 after a rebuke from the Madras High Court.

Ex- The court was then hearing an appeal from the IPO regarding Novartis' Glivec patent application which ought to have been heard by the IPAB. After the notification, the High Court transferred Novartis' petition and subsequently all other pending patent cases to the IPAB. Ever since its creation, the IPAB has been treated like an unwanted child.

1. **Perennially understaffed and underfunded. And also** with its administrative staff often being on deputation, it was also underpowered, at times quite literally.
2. The institution has been involved in controversies. These cases include a challenge to the constitutionality of the IPAB, petitions seeking filling up of vacancies before the High Court in Delhi and Chennai, and even a petition to the Supreme Court for extension of the term of the chairperson.
3. After remaining headless for almost two years, in January 2018, the IPAB was given a head. The then chairperson of the Appellate Tribunal for Forfeited Property was given additional charge.
4. However, there was a substantial delay in the start of hearing of patent cases due to a technical reason. The appointment of the technical member for patents, with whom the chairperson sits while deciding cases on patents was delayed. The appointment of the technical member finally came last year after the government was sued by the Indian Drug Manufacturers' Association.
5. One of the former chairpersons had publicly raised concerns regarding **the judicial and institutional independence of the IPAB, and called for closing it.**
6. The tribunal had to bear the brunt of the summer power cuts in Chennai.
7. The IPAB's jurisdiction of cases was split between trademarks, patents, copyright, and geographical indication, where the predominant business pertained to trademarks. Thus, the workload of the IPAB was typically split between trademarks and patents with the former consuming much of the time. **Not only did the IPAB juggle its time with the different forms of IP, but it also had sittings in five different cities, with just one chairperson who had to fly between them at times.** The chairperson had to summon parties and papers to all these cities, which came at a substantial cost to the public.
8. The disposal rate for patents at the IPAB did not justify its continuance. Patent disputes owing to their technological complexity were the IPAB's predominant time-consuming business after trademarks. Ex- In our study of the first decade of operation of the patents bench, we saw a paltry disposal rate of about 20 patent cases a year. Nearly 70% of the patent cases filed were either pending at some stage or yet to be taken up for hearing. After the IPAB was set up, not more than 15 cases were transferred from all the High Courts to the IPAB. The irony was that tribunals were established with the primary aim of speedy disposal of cases by specialised experts.
9. Every patent granted by the Patent Office is a potential subject matter in appeal before the IPAB. **An unjustified patent grant at the Patent Office, by error or oversight, can only be corrected in appeal.** While it is never known the number of unjustified patents that went unquestioned for lack of an effective appellate mechanism.

Missed opportunity

India stands as a shining example for what it has done legislatively in patent law-

1. Be it the retraction of product patents for pharmaceuticals and chemicals between 1970 and 2005,
2. The anti-evergreening provisions or the robust compulsory licensing regime,
3. It has offered the world a host of TRIPS-compliant flexibilities in its statute.

Barring a few bright spots, there has been a reluctance to extend the flexibilities in the Patents Act through judicial interpretation that expands the law. The tenure of the IPAB will be remembered as a missed opportunity to develop the home-grown jurisprudence on patent law that is much lacking in India.

✚ For Prelims – About Tribunal Reforms (Rationalisation and Conditions of Service) Ordinance, 2021

The Patents Act, 1970	Appellate Board	High Court
The Airports Authority of India Act, 1994	Airport Appellate Tribunal	Central government, for disputes arising from the disposal of properties left on airport premises by unauthorised occupants. High Court, for appeals against orders of an eviction officer.
The Control of National Highways (Land and Traffic) Act, 2002	Airport Appellate Tribunal	Civil Court#
The Geographical Indications of Goods (Registration and Protection) Act, 1999	Appellate Board	High Court

- **Search-cum-selection committees:** The 2017 Act specifies that the Chairperson and Members of the Tribunals will be appointed by the central government on the recommendation of a Search-cum-Selection Committee. The Ordinance specifies that these Committees will consist of: (i) the Chief Justice of India, or a Supreme Court Judge nominated by him, as the Chairperson (with casting vote), (ii) two Secretaries nominated by the central government, (iii) the sitting or outgoing Chairperson, or a retired Supreme Court Judge, or a retired Chief Justice of a High Court, and (iv) the Secretary of the Ministry under which the Tribunal is constituted (with no voting right).
- **Term of office:** The Ordinance specifies that the term of office for the Chairperson of the tribunals will be of four years or till the attainment of the age of seventy years, whichever is earlier. For other members of the tribunals, the term will be of four years or till the age of sixty-seven years, whichever is earlier.
- Further, the Ordinance includes the National Consumer Disputes Redressal Commission established under the Consumer Protection Act, 2019 within the purview of the Finance Act, 2017. The Ordinance removes the following bodies from the purview of the Finance Act, 2017: (i) the Airport Appellate Tribunal established under the Airports Authority of India Act, 1994, (ii) the Appellate Board established under the Trade Marks Act, 1999, (iii) the Authority of Advanced Ruling established under the Income Tax Act, 1961, and (iv) the Film Certification Appellate Authority established under the Cinematograph Act, 1952.

GS 3❖ **Biodiversity**

Q- Describe the characteristic features of the newly found “Sticky Disc footed Bat”?

BACKGROUND = Meghalaya has yielded India’s first bamboo-dwelling bat with sticky discs, taking the species count of the flying mammal in the country to 130.



New discovery: A disk-footed bat has been recorded for the first time in India. SPECIAL

- The disc-footed bat (*Eudiscopus denticulus*) was recorded in the northeastern State’s Lailad area near **the Nongkhylllem Wildlife Sanctuary**, about 1,000 km west of its nearest known habitat in Myanmar.
 - This “very specialised” small bat with **“disc-like pads in the thumb and bright orange colouration”** while sampling in a bamboo patch almost a year ago.
 - There are a couple of other bamboo-dwelling bats in India. But the extent of adaptation for bamboo habitat in this species is not seen in the others, and actually declining.
 - **The newly recorded bat was presumed to be a bamboo-dwelling species, but its flattened skull and adhesive pads helped in identifying it as the disc-footed known from specific localities in southern China, Vietnam, Thailand and Myanmar.** The flattened skull and sticky pads enabled the bats to roost inside cramped spaces, clinging to smooth surfaces such as bamboo internodes. The disc-footed bat was also found to be genetically very different from all other known bats bearing disc-like pads.
 - **The very high frequency echolocation calls of the disc-footed bat**, which was suitable for orientation in a cluttered environment such as inside bamboo groves.
- The disc-footed bat has **raised Meghalaya’s bat count to 66**, the most for any State in India. It has also helped add a genus and species to the bat fauna of India.

GS 2**Snippets**❖ **Social Justice**

Q- List the initiatives taken by the Indian Railways to contribute their part to ease the Covid-19 upsurge?

- Amid spiralling coronavirus cases in the country, the demand for medical oxygen in the country has gone through the roof. And the Railways will run ‘Oxygen Express’ trains over the next few days to transport liquid medical oxygen and oxygen cylinders across the country.

- The Madhya Pradesh and Maharashtra governments had earlier approached the Ministry of Railways to explore whether liquid medical oxygen tankers could be moved by the rail network. On the receipt of the request from the two States, the Railways immediately explored the technical feasibility of transportation of liquid medical oxygen. It has to be transported through roll-on-roll-off service with road tankers placed on flat wagons.
- Empty tankers will begin their journey from the Kalamboli and Boisar railway stations in and near Mumbai on Monday to load liquid medical oxygen from Visakhapatnam, Jamshedpur, Rourkela and Bokaro.



Quick fix: A tanker being loaded on a special train. PTI

- **Green Corridor** is being created for fast movement of the trains to be able to send oxygen wherever there is such demand. **Instructions have been issued to zonal railways to ensure readiness** to receive the trailers and load them back. **Ramps** have to be built at Visakhapatnam, Angul and Bhilai and the existing ramp at Kalamboli is to be strengthened



Which of the following subjects are included in the 11th Schedule of the Indian Constitution?

- A. Agriculture
- B. Vocational Education
- C. Social Forestry
- D. Fire Services
- E. Drinking Water
- F. Regulation of slaughter houses

Choose the correct option:

- a. A and B only
- b. A,B,C and E only
- c. A,B,E and F only
- d. A,B,C,D,E and F



In the case of decriminalising Section 377, Supreme Court called upon the "right to privacy" upheld as a fundamental right under the Constitution in the landmark judgement of?

- a. 2009 Naz Foundation V. Govt. of NCT of Delhi
- b. 2013 Suresh Kumar Koushal v. Naz Foundation
- c. 2017 Justice K. S. Puttaswamy (Retd.) and Anr. vs Union Of India and Ors.
- d. 2018 Navtej Singh Johar v. Union of India

Answer – C

NOTE: On 24 August 2017, the Supreme Court of India held that the Right to Privacy is a fundamental right protected under Article 21 and Part III of the Indian Constitution. The judgement mentioned Section 377 as a "discordant note which directly bears upon the evolution of the constitutional jurisprudence on the right to privacy." **The majoritarian concept, popular morality does not apply to Constitutional rights.**

Sexual orientation is an essential attribute of privacy. Discrimination against an individual on the basis of sexual orientation is deeply offensive to the dignity and self-worth of the individual. Equality demands that the sexual orientation of each individual in society must be protected on an even platform. The right to privacy and the protection of sexual orientation lie at the core of the fundamental rights guaranteed by Articles 14, 15 and 21 of the Constitution.

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