

# UPSC 2017: Comprehensive News Analysis – July 24

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## UPSC Current Affairs 2017: News Analysis

### A. GS1 Related

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#### **Category: SOCIAL ISSUES**

#### 1. [The boycott ban: on Maharashtra’s law against social boycott](#)

##### **Context**

- Maharashtra’s new law prohibiting the social boycott of individuals, families or any community by informal village councils is a step in the right direction, given the pervasive nature of the problem.
- The progressive legislation, which received Presidential assent recently and was gazetted earlier this month, targets the pernicious practice of informal caste panchayats or dominant sections using ostracism as a means of enforcing social conformity.

#### **The Maharashtra Protection of People from Social Boycott (Prevention, Prohibition and Redressal) Act, 2016**

- The act may serve as a template for similar legislation in other States.
- The Act lists over a dozen types of actions that may amount to “social boycott”, which has been made a criminal offence punishable with imprisonment up to three years or a fine of Rs. 1 lakh or both.
- The practices it prohibits range from preventing the performance of a social or religious custom, denial of the right to perform funerals or marriages, cutting off someone’s social or commercial ties to preventing access to educational or medical institutions or community halls and public facilities, or any form of social ostracism on any ground.
- The law recognizes the human rights dimension to issues of social boycott, as well as the varied forms in which it occurs in a caste-based society.
- Its progressive sweep takes into account discrimination on the basis of morality, social acceptance, political inclination, sexuality, which it prohibits. It even makes it an offence to create cultural obstacles by forcing people to wear a particular type of clothing or use a particular language.

##### **Previous instances**

- This is not the first law of its type. Bombay enacted a law against excommunication in 1949, but it was struck down by the Supreme Court in 1962 after the Dawoodi Bohra community successfully argued that it violated the community’s constitutional right to manage its own religious affairs.

##### **Article 17**

- One hopes the latest Act will not be vulnerable to legal challenge. Article 17 of the Constitution and the Protection of Civil Rights Act outlaw untouchability in all its forms, but these are legal protections intended for the Scheduled Castes.
- In reality, members of various castes and communities also require such protection from **informal village councils**

**and gatherings of elders who draw on their own notions of conformity, community discipline, morality and social mores** to issue diktats to the village or the community to cut off ties with supposedly offending persons and families.

### The inhuman practice of social boycott

- The case of a mountaineer from Raigad is somewhat notorious. He had conquered Mt. Everest but could not escape a social boycott in his village because his wife wore jeans and did not wear a mangalsutra.

### Conclusion

- It is not a proud moment for a country when special legislation is required to prohibit social discrimination, ostracism and practices repugnant to human dignity. Yet, given the prevailing circumstances, any legislative assault on abhorrent social practices ought to be welcomed.

## B. GS2 Related

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### Category: *POLITY*

#### 1. [Ordinances should be last resort: Pranab](#)

##### Context

- Bidding farewell to Parliament at a function to mark the end of his tenure, President Pranab Mukherjee said here on Sunday that the institution was for “debate, discussion and dissent.” Disruptions, he said, hurt the Opposition as it took away from it the opportunity to raise people’s concerns.

##### The president had a word of advice for the government too

- **Ordinances should be resorted to only in “compelling circumstances.”**
- The President’s remark is significant as the Modi government, after repeatedly failing to amend the Enemy Property Act, 1968 in the last three years, had promulgated five ordinances. The Bill was passed by Parliament in March. Senior Union Ministers were reportedly deputed to convince the President to sign the fourth and fifth Enemy Property ordinances as he was against their promulgation.

##### The passage of the GST Bill

- The passage of the GST Bill was a **sign of Parliament’s maturity** . Its launch on July 1 was a shining example of cooperative federalism.
- **Values like fraternity, dignity and unity had become the lodestar for the country since Independence.**

## BASIC INFORMATION

### Ordinance making powers of the Executive in India

The Ordinance will only be promulgated after it receives the assent of the President.

#### I. Separation of powers between the Legislature, Executive and Judiciary

- In India, the central and state legislatures are responsible for law making, the central and state governments are responsible for the implementation of laws and the judiciary (Supreme Court, High Courts and lower courts) interprets these laws.
- However, there are several overlaps in the functions and powers of the three institutions.Â For example, the President has certain legislative and judicial functions and the legislature can delegate some of its functions to the executive in the form of subordinate legislation.

#### II. Ordinance making powers of the President

- Article 123 of the Constitution grants the President certain law making powers to promulgate Ordinances when either of the two Houses of Parliament is not in session and hence it is not possible to enact laws in the Parliament.
- An Ordinance may relate to any subject that the Parliament has the power to legislate on. Conversely, it has the same limitations as the Parliament to legislate, given the distribution of powers between the Union, State and Concurrent Lists. Thus, the following limitations exist with regard to the Ordinance making power of the executive:
- - **Legislature is not in session** : The President can only promulgate an Ordinance when either of the two Houses of Parliament is not in session.
  - **Immediate action is required** : The President cannot promulgate an Ordinance unless he is satisfied that there are circumstances that require taking “immediate action”.
  - **Parliamentary approval during session** : Ordinances must be approved by Parliament within six weeks of reassembling or they shall cease to operate.Â They will also cease to operate in case resolutions disapproving the Ordinance are passed by both the Houses.

#### III. Ordinance making powers of the Governor

- Just as the President of India is constitutionally mandated to issue Ordinances under Article 123, the Governor of a state can issue Ordinances under Article 213, when the state legislative assembly (or either of the two Houses in states with bicameral legislatures) is not in session.Â The powers of the President and the Governor are broadly comparable with respect to Ordinance making.Â However, the Governor cannot issue an Ordinance without instructions from the President in three cases where the assent of the President would have been required to pass a

similar Bill.

#### IV. Key debates relating to the Ordinance making powers of the Executive

- There has been significant debate surrounding the Ordinance making power of the President (and Governor).<sup>1</sup> Constitutionally, important issues that have been raised include judicial review of the Ordinance making powers of the executive; the necessity for “immediate action” while promulgating an Ordinance; and the granting of Ordinance making powers to the executive, given the principle of separation of powers.

Table 1 provides a brief historical overview of the manner in which the debate on the Ordinance making powers of the executive has evolved in India post independence.

**Table 1: Key debates on the President’s Ordinance making power**

Year	Legislative development	Key arguments
1970	RC Cooper vs. Union of India	In RC Cooper vs. Union of India (1970) <sup>2</sup> the Supreme Court, while examining the constitutionality of the Banking Companies (Acquisition of Undertakings) Ordinance, 1969 which sought to nationalise 14 of India’s largest commercial banks, held that the President’s decision could be challenged on the grounds that “immediate action” was not required; and the Ordinance had been passed primarily to by-pass debate and discussion in the legislature.
1975	38 <sup>th</sup> Constitutional Amendment Act	Inserted a new clause (4) in Article 123 stating that the President’s satisfaction while promulgating an Ordinance was final and could not be questioned in any court on any ground.
1978	44 <sup>th</sup> Constitutional Amendment Act	Deleted clause (4) inserted by the 38 <sup>th</sup> CAA and therefore reopened the possibility for the judicial review of the President’s decision to promulgate an Ordinance.
1980	AK Roy vs. Union of India	In AK Roy vs. Union of India (1982) while examining the constitutionality of the National Security Ordinance, 1980, which sought to provide for preventive detention in certain cases, the Court argued that the President’s Ordinance making power is not beyond the scope of judicial review. However, it did not explore the issue further as there was insufficient evidence before it and the Ordinance was replaced by an Act. It also pointed out the need to exercise judicial review over the President’s decision only when there were substantial grounds to challenge the decision, and not at “every casual and passing challenge”.
1985	T Venkata Reddy vs. State of Andhra Pradesh	In T Venkata Reddy vs. State of Andhra Pradesh (1985), while deliberating on the promulgation of the Andhra Pradesh Abolition of Posts of Part-time Village Officers Ordinance, 1984 which abolished certain village level posts, the Court reiterated that the Ordinance making power of the President and the Governor was a legislative power, comparable to the legislative power of the Parliament and state legislatures respectively. This implies that the motives behind the exercise of this power cannot be questioned, just as is the case with legislation by the Parliament and state legislatures.
1987	DC Wadhwa vs. State of Bihar	It was argued in DC Wadhwa vs. State of Bihar (1987) the legislative power of the executive to promulgate Ordinances is to be used in exceptional circumstances and not as a substitute for the law making power of the legislature. <sup>3</sup> Here, the court was examining a case where a state government (under the authority of the Governor) continued to re-promulgate ordinances, that is, it repeatedly issued new Ordinances to replace the old ones, instead of laying them before the state legislature. <sup>4</sup> A total of 259 Ordinances were re-promulgated, some of them for as long as 14 years. <sup>5</sup> The Supreme Court argued that if Ordinance making was made a usual practice, creating an “Ordinance raj” the courts could strike down re-promulgated Ordinances.

#### 2. [Bengaluru Declaration calls for SC/ST quota in judiciary](#)

- The Bengaluru Declaration adopted by the State government sponsored Dr. B.R. Ambedkar International Conference 2017, on Sunday recommended a slew of affirmative action measures in private sector, judiciary, educational institutions, government contracts and promotions for Dalits.

#### The Bengaluru Declaration

- The declaration, coming in an election year, significantly concentrates not just on SC/STs, but has also proposed several measures for the larger AHINDA (Kannada acronym for minorities, backward classes and Dalits) community, the political constituency of Chief Minister Siddaramaiah.
- It called for reservation of seats in legislature for other backward classes and setting up of a farmers’ income commission.
- The eight-page declaration has 40 recommendations under six broad categories “safeguarding the people, strengthening democratic institutions, deepening social justice, enhancing human development, ensuring responsive governance, and promoting social security.
- “This Peoples’ Declaration hopes to be a dynamic blueprint that addresses the needs and aspirations of all Indians, and a starting point for an “alliance of equity” of all progressive forces committed to safeguarding the idea of India,” the preamble stated.
- **The Bhopal Declaration** that called for “liberalisation of capital for Dalits” was adopted in 2002 during the tenure of Congress leader Digvijaya Singh in Madhya Pradesh.
- Significantly, the Bengaluru Declaration called for upholding Rule of Law through police reforms and state action to prevent lynchings. It called for a law against gender and caste discrimination at education institutions.
- It further recommended for SC/ST reservation in appointment of judges, promotions, government contracts up to ₹1 crore, in private higher educational institutions and private s It also proposes establishment of an Equal

- Opportunities Commission, to oversee affirmative action.
- Much focus is also given on ensuring land ownership for SC/STs, including a proposal to establish SC/ST land bank, where government buys these lands at market prices and re-allots to the same community, to ensure non-dilution of ownership. It further recommends allocation of 20% of the land in private housing layouts for urban poor.
- The declaration calls for a wider social security net. It recommended a "living wage" and comprehensive social security scheme for all labourers working in the unorganised sector apart from ensuring dignity in retirement through enhanced pensions of ₹1,500 per month.

### 3. [CAG flags delay in work on corvettes](#)

#### In news

- The Comptroller and Auditor-General (CAG) has faulted the Navy and Garden Reach Shipbuilders and Engineers Ltd. for delay in construction of anti-submarine warfare corvettes and hampering their capabilities because of delayed decisions.

#### Weapons not installed

- In the report presented in Parliament last week, the CAG said, "Against the 18 weapons and sensors to be installed on ASW corvettes, audit observed that the two ASW corvettes delivered were not fitted with "X" weapon and sensor systems. Thus, ASW corvettes could not perform to its full potential as envisaged."

### C. GS3 Related

#### Category: *ECONOMICS*

#### 1. [MPC members to get Rs.1.5 lakh per meet, must disclose assets](#)

- The government appointees on the powerful Monetary Policy Committee will be paid Rs.5 lakh per meeting along with air travel and other reimbursements, but will need to observe a "silent period" seven days before and after the rate decision for "utmost confidentiality".
- The silent period and confidentiality requirements will also apply to the three RBI members, including the Governor, on the panel that has been deciding on policy rates since October last year, the central bank has said.

#### "Conflict of interest"

- The Reserve Bank released its newly notified regulations for functioning of the committee.
- The members of the RBI Governor-chaired panel, which has to hold meetings at least four times in a year, are also required to be mindful of any conflict between their personal and public interest while interacting with profit making organisations and making personal financial transactions

#### Monetary Policy Committee

- The six-member MPC, constituted in September 2016, has three persons appointed by the central government while the rest, including the Governor, are from the RBI.
- The panel is required to meet at least four times in a year and the RBI has been convening a bi-monthly meeting of this committee.
- According to the Monetary Policy Committee and Monetary Policy Process Regulations, 2016, MPC members should also take adequate precaution to ensure utmost confidentiality of its policy decision before that is made public and preserve confidentiality about the decision making process,
- Each member of the MPC has one vote and in case the numbers are equal, the governor has the casting vote.
- The MPC, which has the responsibility of achieving a set inflation target, should submit a report to the government in case of failure to achieve the required target.
- In such instances, the report shall be sent to the central government "within one month from the date on which the bank has failed to meet the inflation target".

#### Annual disclosure

- All members need to disclose their assets and liabilities and update this information once every year.
- Also, members cannot reveal outside the committee any confidential information accessed during the monetary policy deliberations.
- After conclusion of MPC meeting, a resolution needs to be made public including on the policy repo rate and any other monetary policy measures at the discretion of the Chairperson while keeping in view the functioning and timing of financial markets.

#### Category: *INTERNAL SECURITY*

#### 1. [Once hero, now "white elephant"](#)

#### In news

- Decommissioned **submarine Vagli** lies idle in Chennai port after plan to convert it into a museum fails.
- She served the Indian Navy and the nation for over 36 years and could have become only the second submarine museum of the country. But since her decommissioning in 2010, the Russia-designed submarine INS Vagli has taken a tedious and uncertain course. She currently lies idle at the Chennai port.
- The submarine, which was to be the centrepiece of the maritime heritage museum planned by the Tamil Nadu government in the tourist town of Mamallapuram, was expected to be displayed on a 30-acre stretch of land near the Shore Temple of the UNESCO-declared World Heritage group of monuments.
- However, the inability of a contractor to mount the submarine on the intended site at Mamallapuram has forced the

vessel to lie idle at the Chennai port.

## ~Wasteful expenditure~™

- A 2016 report of the Comptroller and Auditor General (CAG) of India questioned the process adopted by the government to move the submarine to Mamallapuram in one piece and observed that an “œinfructuous expenditure of Rs. 4.41 crore” was incurred due to a lack of proper planning.
- In December 2016, the submarine was almost damaged when Cyclone Vardah hit the Chennai coast.

## INS Vagli

- INS Vagli was commissioned into the Indian Navy at Riga in Latvia, which was part of the erstwhile Soviet Union in 1974, and was decommissioned at Visakhapatnam in December 2010.

## D. GS4 Related

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***Nothing here for Today!!!***

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## E. Concepts-in-News: Related Concepts to Revise/Learn

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## F. Bills/Acts/Schemes/Orgs in News

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## G. Practice Questions for UPSC Prelims Exam

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## G. UPSC Mains Practice Questions

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### GS Paper I

#### Social Issues

1. The inhuman practice of social boycott still prevalent in the society. What are the issues involved and discuss how to stop the practice.

### GS Paper II

#### Polity

1. Khap panchayats have been in the news for functioning as extra “ constitutional authorities, often delivering pronouncements amounting to human right violations. Discuss critically the actions taken by the legislative, executive and judiciary to set the things right in this regard. **(2015 Mains Question).**
  2. Resorting to ordinances has always raised concern on violation of the spirit of separation of power doctrine. While noting the rationales justifying the power to promulgate, analyse whether the decision of the Supreme Court on the issue have further facilitated to resorting to this power. Should the power to promulgate the ordinances be repealed? **(2015 Mains Question)**
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