

### **3. 22<sup>nd</sup> Law Commission of India**

**Prelims Syllabus:** Regulatory Bodies

**Mains Syllabus:** GS-II Statutory, regulatory and various Quasi-Judicial Bodies.

#### **Why in News?**

- The Union Cabinet has recently approved 22nd Law Commission of India for a period of three years from the date of publication of the Order of Constitution in the Official Gazette.

#### **About Law Commission:**

- Law Commission of India is **neither a constitutional body nor a statutory body**, it is an **executive body** established by an order of the Government of India. Its major function is to work for legal reforms.
- The Commission is established for a fixed tenure and works as an **advisory body to the Ministry of Law and Justice**. Its membership primarily comprises legal experts.
- The recommendations of the commission are **not binding on the Government**. They may be accepted or rejected. Action on the said recommendations depends on the ministries/departments, which are concerned with the subject matter of the recommendations.

#### **History of Law Commission in India:**

- Law Reform has been a continuing process particularly during the last 300 years or more in Indian history. In the ancient period, when religious and customary law occupied the field, the reform process had been ad hoc and not institutionalised through duly constituted law reform agencies.
- However, since the third decade of the nineteenth century, Law Commissions were constituted by the Government from time to time and were empowered to recommend legislative reforms to clarify, consolidate and codify particular branches of law where the Government felt the necessity for it.
- The **First** such Commission was **established in 1834 under the Charter Act of 1833** under the Chairmanship of **Lord Macaulay** which **recommended codification of the Penal Code and the Criminal Procedure Code**.
- Thereafter, the second, third and fourth Law Commissions were constituted in 1853, 1861 and 1879 respectively which, during a span of fifty years contributed to enrich the Indian Statute Book with a large variety of legislations on the pattern of the then prevailing English Laws adapted to Indian conditions.

- The Indian Code of Civil Procedure, the Indian Contract Act, the Indian Evidence Act, the Transfer of Property Act, etc. are products of the first four Law Commissions.

### **Post-Independence Developments:**

- After independence, the Constitution stipulated the continuation of pre-Constitution Laws under Article 372 until they are amended or repealed.
- There had been demands in Parliament and outside for establishing a Central Law Commission to recommend revision and updation of the inherited laws to serve the changing needs of the country.
- The Government of India established the **First Law Commission of Independent India in 1955** with the then Attorney-General of India, Mr. M. C. Setalvad, as its Chairman. Since then twenty one more Law Commissions have been appointed, each with a three-year term.

### **The Functions of Law Commission:**

- The Law Commission, on a reference made to it by the Central Government or suo-moto, undertakes research in law and review of existing laws in India for making reforms therein and enacting new legislations.
- It also undertakes studies and research for bringing reforms in the justice delivery systems for elimination of delay in procedures, speedy disposal of cases, reduction in the cost of litigation etc.
- The other functions of the Law Commission include:
  - ✓ **Review/Repeal of obsolete laws:** Identification of laws which are no longer relevant and recommending for the repeal of obsolete and unnecessary enactments.
  - ✓ **Law and Poverty:** Examines the Laws which affect the poor and carries out post-audit for socio-economic legislations.
  - ✓ **Suggesting enactment of New Legislation** as may be necessary to implement the Directive Principles and to attain the objectives set out in the Preamble of the Constitution.
  - ✓ **Judicial Administration:** Considering and conveying to the Government its views on any subject relating to law and judicial administration that may be specifically referred to it by the Government through the Ministry of Law and Justice (Department of Legal Affairs).

- ✓ **Research:** Considering the requests for providing research to any foreign countries as may be referred to it by the Government through the Ministry of Law & Justice (Department of Legal Affairs).
- ✓ **Examine** the existing laws with a view of promoting gender equality and suggesting amendments thereto.
- ✓ Examine the impact of globalization on food security, unemployment and recommend measures for the protection of the interests of the marginalized.
- ✓ Preparing and submitting to the Central Government, from time to time, reports on all issues, matters, studies and research undertaken by it and recommending in such reports for effective measures to be taken by the Union or any State.
- ✓ Performing such other functions as may be assigned to it by the Central Government from time to time.
- ✓ Before concretizing its recommendations, the Commission consults the nodal Ministry/Departments and such, other stakeholders as the Commission may deem necessary for the purpose.

### **Conclusion:**

- In an era of globalisation and constantly evolving societies, Law Commission identifies the laws which are not in harmony with the existing climate, and laws which require change.
- It suggests suitable measures for quick redressal of citizens' grievances, in the field of law and takes all necessary steps to make the poor benefit out of the legal process.
- Its presence has become even more relevant in Recent Times.