



CURRENT AFFAIRS



Argasia Education PVT. Ltd. (GST NO.-09AAPCAI478E1ZH)
Address: Basement C59 Noida, opposite to Priyagold Building gate, Sector 02,
Pocket I, Noida, Uttar Pradesh, 201301, CONTACT NO:-8448440231

Date - 6 May 2024

IMMUNITY PROVIDED TO THE GOVERNOR

THIS ARTICLE COVERS 'DAILY CURRENT AFFAIRS' AND THE TOPIC DETAILS OF "IMMUNITY PROVIDED TO THE GOVERNOR". THIS TOPIC IS RELEVANT IN THE "POLITY AND GOVERNANCE" SECTION OF THE UPSC CSE EXAM.

WHY IN THE NEWS?

A STAFF MEMBER WORKING AT THE RAJ BHAVAN IN KOLKATA HAS CLAIMED THAT SHE EXPERIENCED SEXUAL HARASSMENT BY WEST BENGAL GOVERNOR C.V. ANANDA BOSE. SHE FILED A FORMAL COMPLAINT AT THE HARE STREET POLICE STATION IN KOLKATA.

ABOUT ARTICLE 361 OF THE CONSTITUTION

Article 361 of the Constitution addresses the immunity granted to the President and Governors.

- **Article 361(1):** The President, or the Governor or Rajpramukh of a State, shall not be answerable to any court for the exercise and performance of the powers and duties of his office or for any act done or purporting to be done by him in the exercise and performance of those powers and duties :

Provided that the conduct of the President may be brought under review by any court, tribunal or body appointed or designated by either House of Parliament for the investigation of a charge under Article 61:

Provided further, nothing in this clause shall be construed as restricting the right of any person to bring appropriate proceedings against the Government of India or the Government of a State.

- **Article 361(2):** No criminal proceedings whatsoever shall be instituted or continued against the President, or the Governor of a State, in any court during his term of office.
- **Article 361(3):** No process for the arrest or imprisonment of the President or the Governor of a State shall be issued from any court during his term of office.
- **Article 361(4):** No civil proceedings in which relief is claimed against the President or the Governor of a State shall be instituted during his term of office in any court in respect of any act done or purporting to be done by him in his personal capacity, whether before or after he entered upon his office as President, or as Governor of such State, until the expiration of two months next after notice in writing has been delivered to the President or the Governor, as the case may be, or left at his office stating the nature of the proceedings, the cause of action therefore, the name, description and place of residence of the party by whom such proceedings are to be instituted and the relief which he claims.

SUMMARY OF THE ARTICLE-361

- The President or Governor cannot be held accountable in any court for executing their official powers and duties. This means they cannot be summoned or interrogated in court for actions carried out in their official role.
- Throughout their term, neither the President nor the Governor can be subjected to criminal proceedings. They are shielded from facing criminal charges related to their official responsibilities.
- During their tenure, neither the President nor the Governor can be arrested or detained. This ensures they can fulfil their duties without the threat of legal repercussions.
- If there are civil actions seeking redress against the President or Governor for actions conducted in their personal capacity (before or after assuming office), a written notice must be served two months in advance. This provision aims to allow for resolution through dialogue before resorting to legal measures.

WHAT PURPOSE DOES ARTICLE 361 SERVE?

- By granting immunity from lawsuits, arrests, and criminal proceedings for actions taken while in office, Article 361 allows the President and Governors to perform their duties decisively without worrying about constant legal challenges. This fosters stability and efficient governance.
- While the President and Governors receive immunity, it's not absolute. Civil lawsuits for non-official actions are possible with notice, and impeachment processes exist for serious misconduct. This creates a balance between protecting effective governance and ensuring accountability.
- Article 361 aims to ensure that they can discharge their duties without fear of undue interference or harassment. Additionally, the provision for prior notice in civil proceedings allows for the resolution of personal matters through communication before resorting to legal action, thus upholding the dignity and respect of these offices.

RELATED JUDGEMENTS AND CASE LAWS

- In the case of **Rameshwar Prasad v Union of India**, the Supreme Court affirmed the immunity bestowed upon Governors by Article 361 of the Constitution. It stressed that Governors cannot be held accountable in any court for the exercise of their powers and duties. This immunity is of a personal nature and does not absolve Governors from judicial scrutiny if their actions are found to be beyond their authority or malicious.
- In **Rajendra Singh Rana v. Swami Prasad Maurya (2007)**, the Supreme Court declared that Governors cannot face prosecution while in office, regardless of actions taken prior to assuming their gubernatorial position. This decision upheld the protection provided under Article 361 of the Constitution.
- In the case of **Dr S.C. Barot And Anr. vs Hari Vinayak Pataskar And Ors. (1961)**, a distinction was drawn between a Governor's official and personal conduct. While complete immunity is granted for official actions, civil proceedings can be initiated with prior notice of two months for a Governor's personal actions.
- In the **State of Rajasthan v. Union of India (1977)**, the Supreme Court clarified that while Governors enjoy immunity from criminal prosecution during their term, this immunity does not extend to actions undertaken outside the scope of their official duties or to private matters unrelated to their role as Governor.

PRELIMS PRACTISE QUESTION

Q1. Consider the following statements:

1. The governor is provided immunity against both the Criminal proceedings and the civil proceedings
2. Governors are not immune from actions outside their official duties.

Which of the above statements is/are correct?

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

ANSWER: B

Q2. Which of the following statements is INCORRECT regarding Article 361?

- (a) Governors have absolute immunity from criminal prosecution.
- (b) Governors can be prosecuted for personal matters.
- (c) Governors are immune from civil proceedings.
- (d) Governors are not immune from actions outside their official duties.

Answer: D

MAINS PRACTISE QUESTION

Q1. Critically analyse the implications of the immunity granted to the President and Governors under Article 361. How does this immunity impact the principles of democracy and the rule of law in India?

Q2. Examine the need for reforms or amendments to Article 361 in light of evolving societal norms, judicial interpretations, and governance requirements. Propose potential changes to enhance accountability while preserving the functional autonomy of the President and Governors.

Himanshu Mishra

NEED OF A DEFENSE UNIVERSITY

THIS ARTICLE COVERS 'DAILY CURRENT AFFAIRS' AND THE TOPIC DETAILS OF "NEED OF A DEFENSE UNIVERSITY ". THIS TOPIC IS RELEVANT IN THE "INTERNATIONAL RELATIONS" SECTION OF THE UPSC CSE EXAM.



CONTEXT

The Greek thinker Thucydides is said to have remarked that a nation which makes a distinction between its scholars and its warriors will have its thinking done by cowards and its fighting done by fools. It is no surprise that several nations have established 'defense universities' to promote academic rigor and enhance strategic thinking in their armed forces.

Within the vicinity of India, reports indicate that Pakistan has established two universities dedicated to its armed forces, while China boasts three such institutions. However, according to a report from the Australian Strategic Policy Institute, over 60 Chinese universities have ties to military and security affairs. Against this backdrop, the lack of progress on the Indian Defence University (IDU), which has been overdue for quite some time, is a matter of concern.

THE IMPORTANCE OF PROFESSIONAL MILITARY EDUCATION (PME) IN INDIA

While the essence of warfare stays consistent, its evolving nature emphasizes the significance of military education and academic readiness to address present and future security complexities. The fluid and tumultuous landscape of contemporary warfare witnessed in Europe and West Asia demands that military officers deliver outcomes amidst vague initial data and swiftly shifting conditions.

Professional Military Education (PME) holds paramount importance in India for several compelling reasons.

1. As a nation with diverse security challenges spanning conventional, asymmetric, and hybrid warfare domains, a robust PME framework is crucial for preparing military personnel to navigate complex operational environments effectively.
2. PME plays a pivotal role in fostering strategic thinking and leadership skills among military officers, enabling them to analyze multifaceted security threats, devise innovative strategies, and make sound decisions in high-pressure situations.
3. In an era characterized by rapid technological advancements and evolving geopolitical dynamics, PME ensures that military professionals stay abreast of the latest developments in military doctrine, technology, and international security affairs, thereby enhancing their overall operational effectiveness.
4. PME serves as a catalyst for fostering inter-service cooperation and jointness, facilitating seamless integration and coordination among different branches of the armed forces, which is essential for achieving synergy in military operations.

5. PME contributes to cultivating a culture of continuous learning and professional development within the armed forces, instilling a sense of pride, discipline, and commitment among military personnel towards safeguarding the nation's security interests.

In essence, the importance of PME in India cannot be overstated, as it serves as a cornerstone for building a competent, adaptive, and forward-looking military capable of addressing the diverse and evolving security challenges confronting the nation.

You

NEED OF DEFENSE INDIGENISATION IN INDIA

Defense indigenization in India is crucial for several reasons:

1. **Self-reliance:** Dependence on foreign countries for defense equipment exposes India to geopolitical vulnerabilities. Indigenous production reduces this dependency and strengthens national security.
2. **Cost-effectiveness:** Developing defense capabilities domestically can be more cost-effective in the long run compared to importing expensive equipment. It also creates opportunities for local industries, contributing to economic growth.
3. **Technology advancement:** Indigenization drives innovation and technological advancements in defense manufacturing. It enables the development of state-of-the-art systems tailored to India's specific needs and challenges.
4. **Strategic autonomy:** Relying on indigenous defense production enhances India's strategic autonomy by reducing reliance on external sources for critical defense requirements. It allows the country to make independent decisions in defense matters.
5. **Job creation and skill development:** Investing in indigenous defense production creates employment opportunities and promotes skill development in the defense sector. This not only boosts the economy but also enhances the expertise of the workforce.
6. **Operational readiness:** Indigenous production can lead to quicker procurement processes and better maintenance support, thereby enhancing the operational readiness of the armed forces.
7. **Export potential:** A robust indigenous defense industry can potentially become a source of defense exports, generating revenue and enhancing India's standing in the global defense market.

CHALLENGES IN INDIA'S DEFENSE SECTOR

- **Technological Limitations:** India faces challenges in developing cutting-edge technologies and expertise required for indigenizing complex defense systems.
- **Financial Constraints:** The high cost of research, development, and production of defense equipment poses a significant challenge, especially for a developing economy like India.
- **Dependency on Imports:** India has historically relied on imports for a significant portion of its defense equipment, resulting in a lack of indigenous capabilities and a culture of dependency.
- **Bureaucratic Hurdles:** Cumbersome procurement procedures, bureaucratic red tape, and slow decision-making processes hinder the timely development and acquisition of indigenous defense systems.
- **Lack of Private Sector Participation:** Limited involvement of the private sector in defense production due to regulatory restrictions, lack of incentives, and risk-averse investment policies.
- **Infrastructure and Skill Gap:** Inadequate infrastructure, research facilities, and skilled workforce in key areas of defense technology impede the indigenization efforts.

- **Quality Control and Standards:** Ensuring quality control and meeting international standards for indigenously developed defense equipment remains a challenge.
- **International Collaboration:** Limited collaboration with foreign defense manufacturers and reluctance to share critical technologies hinder the indigenization process.
- **Political and Strategic Considerations:** Political instability, changing strategic priorities, and geopolitical dynamics can affect long-term planning and investment in defense indigenization efforts.
- **Legacy Systems and Dependencies:** The continued reliance on legacy defense systems and dependencies on foreign suppliers for spares and maintenance pose challenges to achieving full indigenization.

In essence, the importance of PME in India cannot be overstated, as it serves as a cornerstone for building a competent, adaptive, and forward-looking military capable of addressing the diverse and evolving security challenges confronting the nation.

Ankit Kumar



PLUTUS
IAS