



THE HINDU ANALYSIS

1st March 2024

by saurabh
pandey



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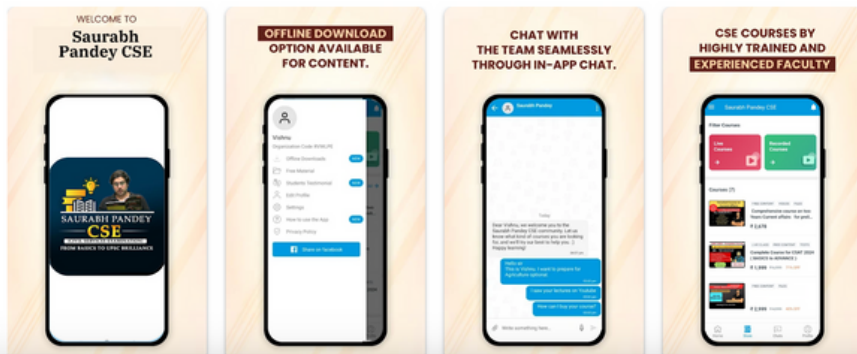
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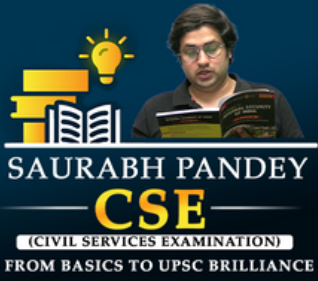
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Melanochlamys droupadi.

- The Zoological Survey of India (ZSI) has named a new marine species of head-shield sea slug with ruby red spot which was discovered from West Bengal and Odisha coast after President of India Droupadi Murmu.
- This species belonging to Melanochlamys genus was discovered from Digha of West Bengal coast and Udaipur of Odisha coast.

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- The new species of head-shield sea slug, which is found nowhere else in the world, has been named **Melanochlamys droupadi**.
- Species of the genus **Melanochlamys** are characterised morphologically by a short, blunt and cylindrical body and a smooth dorsal surface with two dorsal equal or unequal shields, named the anterior cephalic and posterior shield

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Leopard census

- India's leopard numbers rose by 8% from 12,852 in 2018 to 13,874 in 2022, according to a report made public by the Environment Ministry on Thursday.
- While the highest number of leopards were reported in Madhya Pradesh (3,907), only three other States reported over 1,000 animals each – Maharashtra (1,985), Karnataka (1,879) and Tamil Nadu (1,070).
- While Uttarakhand reported a 22% decline in the big cat numbers – reportedly due to poaching and man-animal conflict, Arunachal Pradesh, Assam and West Bengal saw a collective 150% rise to 349 animals.

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- The survey covered 20 States of India, and focused on about 70% of the animals' expected habitat, which are India's tiger reserves and protected forest areas.
- Unlike tigers, which are largely confined to forest reserves, leopards are far more adaptable and tend to be found in significant numbers, in villages and sometimes, even in cities.
- They are also known to prey on cattle and thus be involved in conflict, resulting in higher mortality

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New criminal law

- the three newly-enacted criminal laws, the Bharatiya Nyay Sanhita (to replace the Indian Penal Code), the Bharatiya Nagarik Suraksha Sanhita (to replace the Code of Criminal Procedure) and the Bharatiya Sakshya Adhiniyam (to replace the Indian Evidence Act) are to come into force on July 1, 2024.
- At the same time, Section 106(2) of the Bharatiya Nayay Sanhita (BNS), which prescribes 10 years imprisonment for fatal accidents if they are not immediately reported to the police, has been put on hold, as notified by the Central government.

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- The Ministry of Home Affairs (MHA) and State governments are preparing for a smooth transition.
- While some changes have been made in the Bharatiya Nagarik Suraksha Sanhita (BNSS) in connection with investigation and police functioning, a few new offences and some changes introduced in the BNS, the contents of the Indian Evidence Act, 1872 have changed little as far as the Bharatiya Sakshya Adhiniyam (BSA) is concerned.
- The scope of secondary evidence has been slightly broadened and some changes have been made in the provisions relating to electronic evidence in the BSA.

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- there is clarity in the provision dealing with primary (electronic) evidence (Section 57) in the form of Explanations.
- One of such four explanations says that where a video recording is simultaneously stored in electronic form and transmitted or broadcast or transferred to another, each of the stored recordings shall be primary evidence.
- This may help the investigating agencies in fixing culpability of a cyber-criminal even if he destroys his original electronic record to deny the allegations as it may be collected from other sources without its value getting diminished.

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- **Section 63, which deals with admissibility of electronic records, includes terms such as ‘semi-conductor memory’ and ‘any communication device’ for better visibility.**
- **However, this does not change the impact of the provision because the definition of ‘electronic form’ given in the Information Technology (IT) Act, 2000 includes information generated, sent, received or stored in ‘computer memory’.**

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- Similarly, the definition of ‘computer network’ in the IT Act is comprehensive and includes ‘communication device’.
- It is relevant to mention that the computer (primary) memory, that is; random access memory (RAM) and cache memory, is nothing but semi-conductor memory which is essential for the quicker working of a computer.
- Though it is volatile in nature, this memory may reveal very important information if electronic devices are recovered and seized in ‘power-on’ condition.

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Rajya sabha election and cross voting

- As per Article 80 of the Constitution, representatives of each State to the Rajya Sabha are elected indirectly by the elected members of their Legislative Assembly.
- The polls for Rajya Sabha will be required only if the number of candidates exceed the number of vacancies.
- In fact, till 1998, the outcome of Rajya Sabha elections were usually a foregone conclusion.
- The candidates nominated by various parties, according to their strength in the Assembly, used to be elected unopposed.
- However, the June 1998 Rajya Sabha elections in Maharashtra witnessed cross-voting that resulted in the loss of a Congress party candidate.

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- In order to rein in the MLAs from such cross-voting, an amendment to the Representation of the People Act, 1951 was carried out in 2003.
- Section 59 of the Act was amended to provide that the voting in elections to Rajya Sabha shall be through an open ballot.
- The MLAs of political parties are required to show their ballot paper to the authorised agent of their Party.
- Not showing the ballot paper to the authorised agent or showing it to anyone else will disqualify the vote.
- Independent MLAs are barred from showing their ballots to anyone

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What does the Tenth Schedule state?

- The 52nd constitutional amendment introduced the 'anti-defection' law through the Tenth Schedule in 1985.
- This Schedule provides that a member of a House of Parliament or State legislature who voluntarily gives up the membership of their political party or votes against the instructions of their party in a House are liable for disqualification from such House.
- This instruction with respect to voting is issued by the 'whip' of a party. However, the elections to Rajya Sabha are not treated as a proceeding within the Legislative Assembly.

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- The Election Commission, drawing reference to Supreme Court judgments, had issued a clarification in July 2017.
- It specified that the provisions of the Tenth Schedule, with respect to voting against the instruction of the party, will not be applicable for a Rajya Sabha election.
- Furthermore, political parties cannot issue any 'whip' to its members for such elections.

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What have the courts ruled?

- The Supreme Court in **Kuldip Nayar versus Union of India (2006)**, upheld the system of open ballot for Rajya Sabha elections.
- It reasoned that if secrecy becomes a source for corruption, then transparency has the capacity to remove it.
- However, in the same case the court held that an elected MLA of a political party would not face disqualification under the Tenth Schedule for voting against their party candidate.

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- .He/she may at the most attract disciplinary action from their political party.
- The Supreme Court has also held in Ravi S. Naik and Sanjay Bandekar versus Union of India (1994), that voluntarily giving up membership under the Tenth Schedule is not synonymous with only formally resigning from the party to which the member belongs.
- The conduct of a member both inside and outside the house can be looked into to infer if it qualifies as voluntarily giving up membership.

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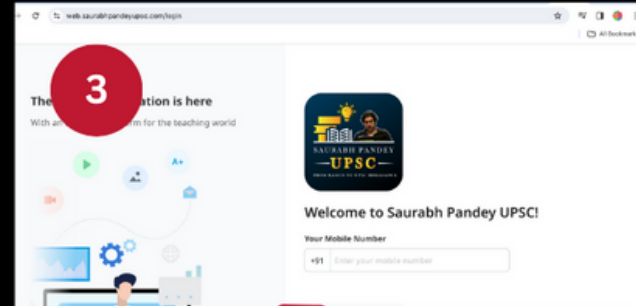
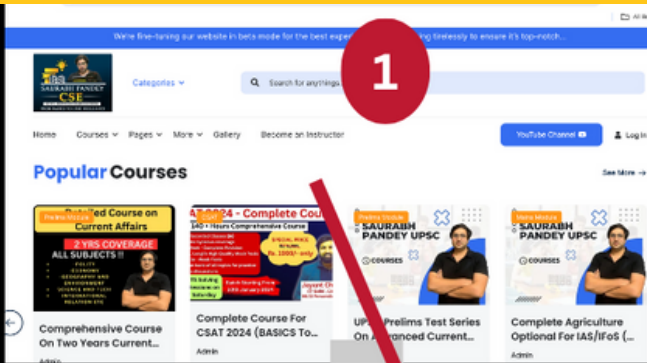
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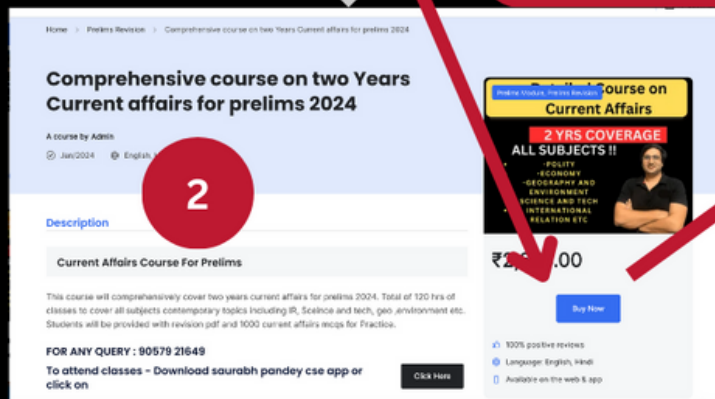
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