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1. Wrestlers return Padma honours: Looking back at 'award wapsi' during Indira Gandhi regime

Why in news?

Wrestler Bajrang Punia on December 22 said he was returning his Padma Shri, India's fourth-highest civilian award, to oppose the election of Sanjay Singh, a close aide of BJP MP and sexual harassment accused Brij Bhushan Sharan Singh, as president of the Wrestling Federation of India (WFI).

Punia, who has won multiple medals for India, was stopped by the Delhi Police at Kartavya Path when he tried to walk towards Prime Minister Narendra Modi's residence. "I will give the Padma Shri award to anyone who will take it to PM Modi," Bajrang said before he placed the award on the footpath and walked away.

This was followed by deaflympics gold medallist Virender Singh Yadav making a similar announcement, saying he would give up his Padma Shri in solidarity with wrestler Sakshi Malik, who quit the sport to protest Singh's election.



Award wapsi not new

Yadav and Punia join a long list of awardees who have returned their civilian honours in the past few years. However, "award wapsi" is by no means a recent phenomenon in India. One of the earliest examples of this goes back to 1919, when Rabindranath Tagore returned his knighthood (the title of 'Sir'), granted by the British, in response to the Jallianwala Bagh massacre.

In post-independence India, too, many recipients have returned awards and honours granted by the government. This is not counting those who have refused to accept the awards.

Two notable examples of 'award wapsi' are from the Emergency period.

During the Emergency

When former Prime Minister Indira Gandhi imposed a state of Emergency on the country, several prominent civil society members rose up in protest. Two of them went as far as to return the civilian honours granted to them — writer K Shivarama Karanth from Karnataka returned his Padma Bhushan, while author Phanishwar Nath "Renu" from Bihar gave up his Padma Shri.

Apart from the Emergency

Renu and Karanth were not the only writers to give up their awards in protest against the Indira government.

In 1984, poet and novelist Khushwant Singh returned his Padma Bhushan, awarded in 1974, to protest Operation Blue Star at the Golden Temple.

In the same year, Kashmiri writer Akhtar Mohiuddin returned the Padma Shri, which he received in 1968, over the hanging of Kashmiri separatist Maqbool Bhat.

Relevance: GS Prelims; Indian Polity

Source: The Indian Express

2. The Wrestling Federation of India needs a complete overhaul

Why in news?

The Union Sports Ministry suspended the newly elected Wrestling Federation of India (WFI) in yet another twist in the nearly year-long saga afflicting Indian wrestling.

Brij Bhushan forced to give up control

In January 2023, Olympic medallists Sakshi Malik and Bajrang Punia, and World Championship medallist Vinesh Phogat, had accused the then WFI President Brij Bhushan Sharan Singh and the coaches of the Federation of sexual harassment. The Bharatiya Janata Party parliamentarian was subsequently forced to relinquish control and was charged by the Delhi police for offences including stalking and harassment.

Loyalist appointed as President

Recently, his long-term loyalist, Sanjay Singh, was appointed the new president. Not only did Singh and his fellow Brij Bhushan confidants win 13 of 15 posts to which polls

were held, not a single woman was chosen. The sight of Singh standing beside a heavily garlanded Brij Bhushan outside the latter's residence — which also doubled up as the WFI office — and the duo flashing the victory sign was enough indication of where the control lay.

Wrestlers disappointed

Such was the disappointment among the wrestlers that a tearful Sakshi announced her retirement while Vinesh warned that no woman will find wrestling safe in the current set-up. Bajrang decided to return his Padma Shri award in protest.

Embarrassment for government

Perhaps, it is this embarrassing turn of events that forced the government to finally act. The Ministry has also cited hasty and arbitrary decision-making on Singh's part, wherein he announced the revival of tournaments without taking into confidence the Secretary General (Prem Chand Lochab) as mandated by the WFI constitution. Lochab is one of two WFI office-bearers not considered close to Brij Bhushan.

Another reason was the running of Federation affairs from "the premises controlled by former office-bearers, also the alleged premises wherein sexual harassment of players has been alleged". In a nutshell, the mess has laid bare everything that plagues sports administration in India.

Even as the nation is diversifying its sporting excellence, the bureaucracy that runs sport still carries the unwelcome legacy of patronage politics. It also does not help that prominent athletes occupying positions of power are mostly deferential to the political masters who helped in their ascent.

In the wrestlers' case, the Indian Olympic Association led by the legendary P.T. Usha dithered in its initial response and the athletes' commission comprising iconic sportspersons was tongue-tied. Such was Brij Bhushan's clout that a first information report was registered only after the intervention of the Chief Justice of India. There is still room to wipe the slate clean and usher in reforms. The authorities should go the whole hog.

Relevance: GS Prelims & Mains Paper II; Governance

Source: The Hindu

3. India's revised criminal law proposals

Why in news?

Union Home Minister Amit Shah introduced three revised Bills in the Lok Sabha to replace British-era criminal laws: the Indian Penal Code (IPC) will be replaced by the Bharatiya Nyaya (Second) Sanhita Bill, 2023; the Code of Criminal Procedure (CrPC) by

the Bharatiya Nagarik Suraksha (Second) Sanhita, 2023; and the Indian Evidence Act by the Bharatiya Sakshya (Second) Bill, 2023. The Bills underwent review by a Parliamentary Standing Committee, leading to corrections of errors and over 50 recommended changes highlighted by Opposition MPs. Mr. Shah clarified that the revised Bills address suggestions and were introduced to avoid numerous official amendments.

Here are the key highlights of the revised Bills.

Bharatiya Nyaya (Second) Sanhita Bill, 2023

Section 113 of the revised Bill has modified the definition of the crime of terrorism to entirely adopt the existing definition under Section 15 of the Unlawful Activities (Prevention) Act, 1967 (UAPA). The UAPA, often labeled as draconian, is defined as a terrorist act 'with intent to threaten or likely to threaten the unity, integrity, economic security, or sovereignty of India or with intent to strike terror or likely to strike terror in the people or any section of the people in India or any foreign country.'

The earlier version of the Bill included within the ambit of a terrorist act, vague acts such as intimidating the general public or a segment thereof, disturbing public order, creating an atmosphere or spreading a message of fear; destabilising or destroying the political, economic, or social structures of the country, or creating a public emergency or undermining public safety. Accordingly, even non-violent speech could be categorised as a terrorist act under this definition.

However, the new definition differs from the UAPA's definition in one respect — UAPA includes the production or smuggling or circulation only of high quality counterfeit Indian paper currency, coin, or any other material within the ambit of terrorism, whereas the revised Bill widens this definition to cover the same activities concerning any counterfeit Indian paper currency, coin or of any other material.

Further, possessing property derived from or through a terrorist act is punishable only if held knowingly. Similarly, harbouring a terrorist is punishable if it is done both voluntarily and knowingly. The offence of recruiting and training persons to engage in terrorist acts has been introduced, mirroring sections 18A and 18B of the UAPA.

Notably, the Explanation to this section allows an officer not below the rank of Superintendent of Police to decide if the prosecution of a terrorist act should continue under the UAPA or section 113 of this Bill.

The offence is punishable by death or imprisonment for life. Those who conspire, abet, incite, or facilitate the commission of a terrorist act could face imprisonment ranging from five years to life.

Cruelty defined

Another addition to the revised Bill is that it proposes to define “cruelty” against a woman by her husband and his relatives, which is punishable with a jail term of up to three years. The newly inserted section 86 defines ‘cruelty’ as (a) wilful conduct likely to drive a woman to commit suicide or cause grave injury or danger to the life, limb, or health (whether mental or physical); or (b) harassment of a woman to coerce her or any person related to her to meet any unlawful demand for property or valuable security.

Although the offence has now been defined in a separate provision, Section 498A of the IPC and Section 84 in the original Bill defined cruelty using the same terms in their “explanation” clauses. Therefore, there is no new addition in effect in the revised Bill.

Court proceedings

The newly inserted section 73 stipulates that those who print or publish ‘any matter’ concerning court proceedings in rape or sexual assault cases without permission would be punished with a two-year jail sentence and a fine. The Explanation to this provision clarifies that reports on High Court or Supreme Court judgments would not amount to an offence within this provision.’

In an attempt to do away with regressive terminology, the earlier version of the Bill had replaced terms such as lunacy, mental retardation, and unsoundness of mind with ‘mental illness.’ However, the panel pointed out that the term ‘mental illness’ is too wide in its import and could even include mood swings and voluntary intoxication. As a result, the revised Bill replaces the term ‘mental illness’ with ‘unsoundness of mind’ in a majority of the provisions. It has added the term ‘intellectual disability’ along with unsoundness of mind in section 367 (competence to stand trial).

The original Bill made mob lynching and hate crime a separate category of murder for the first time. The offence dealt with cases where murder is committed by five or more persons acting in concert with one another, on grounds of race, caste or community, sex, place of birth, language, personal belief, or any other ground. However, it was criticised by the panel for prescribing a lesser minimum sentence of imprisonment of 7 years as opposed to the offence of murder, where the minimum sentence is imprisonment for life. The revised Bill has now removed the minimum punishment of seven years and now penalises mob lynching at par with murder.

Ignored recommendations

Two crucial recommendations of the panel to include a gender-neutral provision criminalising adultery, and a clause that criminalises non-consensual sex between men, women, transpersons, and acts of bestiality has been left out in the revised Bill. In 2018, a Constitution Bench of the Supreme Court unanimously decriminalised adultery for being discriminatory and infringing upon a woman’s autonomy. However, the panel

reasoned that adultery should be criminalised in a gender-neutral manner since it is crucial to safeguard the sanctity of the institution of marriage.

The panel pointed out, "Section 377 IPC can still be invoked when there is a nonconsensual sex/rape of a man by another man. A woman can also initiate proceedings against her husband for unnatural sex under Section 377 IPC. If, as per the Nyaya Sanhita, these acts are not offences, it means that the victims of sodomy, buggery, etc. will have no remedy available under it. So if a man is 'raped' by another man, what is his remedy?" Thus, this leaves men and transgender persons with no legal remedy against sexual offences.

'Petty organised crime'

The revised Bill includes a more precise definition of 'petty organised crime': Whoever, being a member of a group or gang, either singly or jointly, commits any act of theft, snatching, cheating, unauthorised selling of tickets, unauthorised betting or gambling, selling of public examination question papers or any other similar criminal act, is said to commit petty organised crime.' The Explanation to this provision stipulates that theft would include trick theft, theft from a vehicle, dwelling house, or business premises, cargo theft, pickpocketing, theft through card skimming, shoplifting, and theft of an Automated Teller Machine.

Bharatiya Nagarik Suraksha (Second) Sanhita, 2023

The original Bill introduced the concept of 'community service' as a form of punishment for petty offences such as an attempt to commit suicide, public servants unlawfully engaged in trade, theft of property less than ₹5,000, public intoxication, and defamation. This punishment has now been defined under Section 23 of the revised Bill. Community service is 'work which the court may order a convict to perform as a form of punishment that benefits the community, for which he shall not be entitled to any remuneration.' Moreover, a Magistrate of the First or Second Class has been specifically empowered to impose this punishment, to encourage a more reparative approach to minor crimes.

Power of police

Section 43(3) of the original Bill permitted the use of handcuffs to prevent the escape of individuals accused of serious offences and ensure the safety of police officers and staff during arrests. However, the panel recommended that this should be restricted to select heinous crimes like rape and murder instead of extending its usage to persons who have been accused of committing 'economic offences.' In another change, the power of the police to use handcuffs has been expanded beyond the time of arrest to include the stage of production before court as well.

Conduct of court

The original Bill permitted the conduct of court proceedings through audio-visual means. However, certain types of proceedings mentioned in the earlier draft have been deleted, including inquiries, trials before court of sessions, trials in summary cases, plea bargaining, and trials before High Courts. Meanwhile, the provisions allowing the reading out of charge to the accused, hearing on discharge, examination of witnesses, and recording of evidence in audio-visual means have been introduced in the revised Bill in sections 251, 262, 266, and 308 respectively.

Police custody

The revised Bill has overlooked the concerns of the panel regarding a provision in the earlier version that allowed police custody beyond the initial 15 days of arrest.

Section 187(3) of the Bill, which corresponds to Section 167 (2)(a) of the CrPC, does not contain the phrase 'otherwise than in the custody of the police' — implying that the prescribed 15-day-period of police custody can now be an aggregate of shorter periods of custody sought over the entire period of an investigation lasting 60 or 90 days (depending on the nature of the offence.)

Since people, particularly those hailing from marginalised backgrounds, may be subjected to extreme custodial violence, the panel underscored that "there is a concern that this clause could be vulnerable to misuse by authorities, as it does not explicitly clarify that the custody was not taken in the first 15 days either due to the conduct of the accused or due to extraneous circumstances beyond the control of the investigating officer. The committee recommends that a suitable amendment be brought to provide greater clarity in the interpretation of this clause.

Accordingly, under the revised Bill, the detained person must now be produced before the Magistrate or released in petty cases within 24 hours.

Bharatiya Sakshya (Second) Bill, 2023

Section 61 of the original Bill allowed the admissibility of electronic evidence by underscoring that an electronic record shall have the same legal effect as a paper record. However, there was no requirement for a certificate under section 63 (corresponding to the requirement of a certificate under section 65B of the Indian Evidence Act). This provision has now been revised to state that the admissibility of an electronic record is subject to section 63.

Relevance: GS Prelims & Mains Paper II; Governance

Source: The Hindu