



## Reforms in Special and Local Laws

**For Prelims:** The Need for Reforms in India's Criminal Laws, [Indian Penal Code \(IPC\)](#), Code of Criminal Procedure (CrPC), Indian Evidence Act, [Criminal Justice System](#), [Cognisable Offense](#).

**For Mains:** The Need for Reforms in India's Criminal Laws, Government policies and interventions for development in various sectors and issues arising out of their design and implementation.

[Source: TH](#)

### Why in news?

Recently, several Bills have been tabled for reforming substantive criminal law as codified in the [Indian Penal Code \(IPC\)](#), [Code of Criminal Procedure \(CrPC\)](#) and [Indian Evidence Act \(IEA\)](#), but **Special and Local Laws (SLLs)** have been largely neglected.

### What are Special and Local Laws (SLLs)?

#### ▪ About:

- SLLs are specifically designed to address region-specific, cultural, or unique legal matters within a particular state or local area.
- They are distinct from the **general laws and regulations** outlined in the [Indian Penal Code \(IPC\)](#).
- It identifies **Criminal Activities** that the state government frames for specific issues.

#### ▪ Significance:

- **SLLs** constitute a **crucial part of India's Criminal Justice System**, encompassing the most critical offenses and procedures. They are immensely relevant in **the Indian Criminal Justice System**.
- Nearly **39.9% of all Cognisable Offenses** registered in 2021 were under **SLLs**.
  - In **Cognisable Offences**, an officer can take **cognizance of and arrest a suspect without seeking a court's warrant** to do so, if she has "reason to believe" that the person has committed the offence and is satisfied that the arrest is necessary on certain enumerated bases.
  - Within 24 hours of the arrest, the officer must have detention ratified by a judicial magistrate.

### What is the Need for Reforms in Special and Local Laws in India?

#### ▪ Ambiguous Definitions:

- Some SLLs, such as the [Unlawful Activities \(Prevention\) Act, 1967](#) suffer from deficient, ambiguous, and **vague definitions of offenses** and terms like **'terrorist act,' 'unlawful activity,' and 'organized crime.'**
- These ambiguities can lead to **misuse and misinterpretation**, affecting the due process of law.

#### ▪ Variability in legal process

- SLLs can result in different treatment for individuals or groups based on their geographical location, leading to disparities in access to justice and legal protection.
- The lack of legal consistency can create uncertainty for individuals and businesses, making it difficult to navigate legal rights and obligations.
- **Inherently Indiscreet:**
  - The absence of **contemplative considerations can lead to inefficiencies** and uncertainties.
    - For example, the [Protection of Children from Sexual Offenses Act, 2012](#), has been criticized for its application to **consensual sexual activities between minors**, raising concerns about criminalising such conduct.
    - [Supreme Court \(SC\)](#) in the case of *P. Mohanraj versus M/s Shah Brothers Ispat Ltd., 2021* referred to **Section 138 of the Negotiable Instruments Act (NI Act), 1881** as a 'civil sheep' in a 'criminal wolf's' clothing.
      - **Section 138 of the NI Act** provides for criminal provision regarding a **cheque bounced due to insufficiency of funds.**
- **Undermining of Due Process:**
  - SLLs have led to the **sabotage of due process values**, exemplified by increased powers of search and seizure and admissibility of confessions recorded by police officers.
  - It does not adequately **safeguard the rights of the accused**, creating concerns about fairness and the protection of individual liberties.
  - The lack of robust safeguards can open the door to potential abuse of the legal process, affecting the accused's rights
  - Restrictive Bail Provisions in SLLs make obtaining bail nearly impossible infringing on the rights of the accused.
    - **E.g:** Under **Section 43(D)(5) of the UAPA**, the bail provisions are exceptionally stringent, making it nearly impossible for those accused under the UAPA to secure bail.

## Conclusion

- SLLs criminalizing conduct **should be integrated into the penal code** as separate chapters. SLLs with distinct procedures for reporting, arrest, investigation, prosecution, trial, evidence, and bail must be included in the Code of Criminal Procedure (CrPC) or treated as exceptions.
- The current omission of SLL aspects in the ongoing reform process is a significant limitation, **necessitating a second wave of reforms to rectify these deficiencies.**

## UPSC Civil Services Examination, Previous Year Questions (PYQs)

### Mains:

**Q.** Indian government has recently strengthened the anti-terrorism laws by amending the Unlawful Activities(Prevention) Act, (UAPA), 1967 and the NIA Act. Analyze the changes in the context of the prevailing security environment while discussing the scope and reasons for opposing the UAPA by human rights organizations. **(2019)**