

THEMATIC #1 CURRENT AFFAIRS for IAS PRELIMS 2024

POLITY

THEME # 1

PHILOSOPHY OF THE INDIAN CONSTITUTION

- VALUES, DOCTRINE & TERMINOLOGY IN CONSTITUTION
- AMENDMENTS OF THE CONSTITUTION
- FUNDAMENTAL RIGHTS
- DIRECTIVE PRINCIPLE OF STATE POLICY
- SCHEDULES & SUBJECTS



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THEMATIC CURRENT AFFAIRS

UPSC CSE Prelims exam requires a candidate to link and interlink Current Affairs with the syllabus and the static concepts.

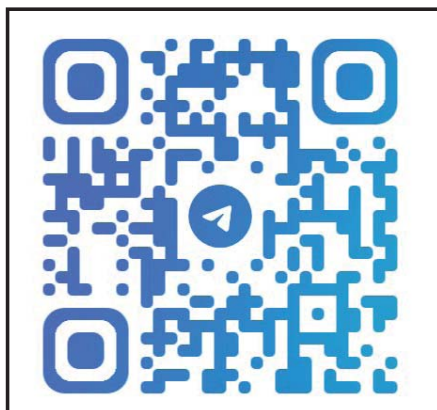
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To aid in this process, we have categorized the entire UPSC prelims syllabus into actionable and easy-to-understand themes, and current affairs have been blended into these themes.

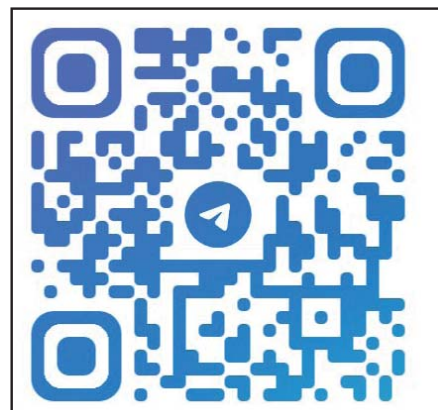
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UPSC CSE Current Affairs



Values, Doctrine & Terminology in Constitution

1. 'SOCIALIST' & 'SECULAR' IN PREAMBLE

BACKDROP

The Supreme Court has listed a petition which seeks the removal of the words “**Socialist**” and “**Secular**” from the Preamble of the Indian Constitution.

Arguments in the petition

- ⦿ The words were never intended to be in the Constitution and that such insertion is “beyond the amending power of the Parliament under **Article 368**”.
- ⦿ The move was “per se illegal for violating the concept of freedom of speech and expression enumerated in **Article 19(1)(a) of the Constitution** and the right to freedom of religion guaranteed under **Article 25** of the Constitution”.

Meaning of Socialist and Secular

- ⦿ The two terms were inserted into the preamble as part of the **42nd Amendment of the Constitution** in 1976.
- ⦿ Before the term “Socialist” was added to the Preamble, some of the **Directive Principles of State Policy in the Constitution** had socialist content.
- ⦿ **Socialist:** The term “socialist” here means that
 - Wealth should be shared equally by society;
 - Wealth should not be concentrated in the hands of a few rich people and;
 - The government should be responsible for reducing socio-economic inequalities



Other changes made through 42nd Amendment

- ⦿ It also changed “unity of the nation” to “unity and integrity of the nation”.

- ⊙ **Secular:** Secular means that the relationship between the government and religious groups are determined according to the Constitution and law.
 - It separates the power of the state and religion. It means that all religions are equally respected and that there is no state religion.
 - All the citizens of India are allowed to profess, practice, and propagate their religions.

2. BASIC STRUCTURE DOCTRINE

BACKDROP

The Vice President of India has condemned the **Supreme Court's landmark 1973 judgement in the Kesavananda Bharati case** in which it ruled that Parliament had the authority to amend the Constitution but not its basic structure.

What does the Basic Structure mean?

- ⊙ The Constitution of India **does not define** the basic structure of the Constitution.
- ⊙ The term has been defined to include features like the:
 - Supremacy of the Constitution
 - Rule of Law
 - Independent Judiciary
 - Federalism
 - Sovereign Democratic Republic
 - Welfare State
 - Parliamentary System of Government
 - Principle of Free and Fair elections



Edneer Mutt

- ⊙ The Edneer Mutt is believed to have been established by Totakacharya
- ⊙ It is one of four original disciples of Adi Shankaracharya (credited to have synthesised the non-dualistic philosophy of Advaita Vedanta).

Who was Kesvananda Bharti?

- ⊙ He was a monk from Adi Shankaracharya's tradition born in 1940.
- ⊙ Kesavananda Bharati took sanyas at the **age of 19** and headed to the Edneer Mutt, a Hindu monastery in Kasargod, Kerala.
- ⊙ In 1961, he was appointed as the head of the Mutt, a position he held till his death in 2020.
- ⊙ He fought against the **Kerala government's land reforms**.
- ⊙ He was challenging the 1969 Land Reforms enacted by the communist C. Achuta Menon government which had affected his Mutt.
- ⊙ Under the reforms, Edneer Mutt lost a large chunk of its property, which contributed to its financial woes.
- ⊙ Kesavananda Bharati argued that this action has violated his fundamental rights – in particular, his fundamental **right to religion (Article 25)**, **freedom of religious denomination (Article 26)**, and **right to property (Article 31)**.

3. 'GUILTY BY ASSOCIATION' DOCTRINE

BACKDROP

The Supreme Court in India overturned its 2011 judgments, reinstating the "guilt by association" doctrine. It ruled that being a member of a banned organization would be a crime under the country's anti-terror law, the Unlawful Activities (Prevention) Act (UAPA) of 1967.

What is Guilty by Association mean?

- ⦿ Guilt by association, also known as the **association fallacy**, is officially defined as "guilt ascribed to someone not because of any evidence, but because of their association with an offender."
- ⦿ In this particular context, an individual can face criticism or backlash as a result of their likeness to an existing group or entity.
- ⦿ Conversely, honour by association describes a situation where someone is lauded as a result of their affiliation with groups that are perceived in a positive light.

4. THE DOCTRINE OF PLEASURE

BACKDROP

The Kerala has seen debates over using the '**Doctrine of Pleasure**' for the appointment and dismissal of the **Vice-Chancellor** of Universities by the Governor of the State as Chancellor of all the State Universities.

What is the Doctrine of Pleasure?

- ⦿ The pleasure doctrine is a concept derived from **English common law**, under which the crown can dispense with the **services of anyone** in its employ at any time.
- ⦿ In England, the moral rule is that **a civil servant of the Crown holds office during the pleasure of the Crown**. This means his services can be terminated at any time by the Crown, without assigning any reason.

Provisions in India for Appointment and dismissal of Civil servants:

- ⦿ In India, **Article 310** of the Constitution says every person in the **defence or civil service** of the Union holds office during the **pleasure of the President**, and every member of the civil service in the States holds office during the **pleasure of the Governor**.
- ⦿ However, **Article 311** imposes restrictions on the removal of a civil servant. It provides for civil servants being given a reasonable opportunity for a hearing on the charges against them.
- ⦿ There is also a provision to dispense **with the inquiry** if it is not practicable to hold one, or if it is not expedient to do so in the **interest of national security**.
- ⦿ In practical terms, the pleasure of the President referred to here is that of the Union government, and the Governor's pleasure is that of the State government.

Does Governor have the power to use this doctrine?

- ⦿ Under **Article 164**, the Chief Minister is appointed by the Governor; and the other Ministers are appointed by the Governor on the CM's advice. It adds that Ministers hold office during the pleasure of the Governor.
- ⦿ In a **constitutional scheme** in which they are appointed solely on the CM's advice, the 'pleasure' referred to is also taken to mean the right of the Chief Minister to dismiss a Minister and not that of the Governor.
- ⦿ In short, **the Governor** of an Indian State cannot **remove a Minister** on his own.

5. DOCTRINE OF NECESSITY

BACKDROP

The Competition Commission of India (CCI) invoked the **doctrine of necessity** to bypass the quorum to clear six deals.

What is Doctrine of Necessity?

- ⦿ The term Doctrine of Necessity is a term used to describe the basis on which administrative actions by administrative authority, which are designed to restore order, are found to be constitutional.
- ⦿ It is an exception to the principle of '**Nemo judex in causa sua**'.
- ⦿ The maxim on which the doctrine is based originated in the writings of the medieval jurist Henry de Bracton, and similar justifications for this kind of administrative action have been advanced by more recent legal authorities, including William Blackstone.



Amendments of the Constitution

1. CONSTITUTION (SCHEDULED TRIBES) ORDER (FIFTH AMENDMENT) BILL, 2022

BACKDROP

Rajya Sabha passed the **Constitution (Scheduled Tribes) Order (Fifth Amendment) Bill, 2022** to amend the Constitution (Schedule Tribes) Order, 1950 for inclusion of certain communities in the list of Schedule Tribes of Chhattisgarh.

- The castes namely Dhanuhar, Dhanuwar, Kisan, Saundra Saonra and Binjhia communities are added to the list.
- The three Devanagari versions of the Pando community are also included.

Procedure to include communities in Central List:

◎ **National Commission for Backward Classes Act, 1993:**

- As per the **NCBC Act, 1993**, the Commission is mandated **to constitute a Bench** to examine the proposals of inclusion and then forward their decision to the **Union government (with dissent, where applicable)**.
- The Cabinet then needs to approve the additions and bring legislation to this effect.
- **The President** is empowered to **notify** the change.

Constitutional Provisions:

- ◎ **Articles 15(4) and 16(4)** make special provisions for socially and educationally backward classes of citizens (SEBCs, popularly known as OBCs), the **Scheduled Castes (SCs) and Scheduled Tribes (STs)**.
- ◎ **The Constitution (102nd Amendment) Act, 2018:** It granted constitutional status to the National Commission for Backward Castes (NCBC).

◎ **It further inserted:**

- **Article 338B**, which deals with the **structure, duties, and powers** of the NCBC.
- **Role of NCBC:** It was tasked with monitoring safeguards provided for socially and educationally backward classes, giving advice on their **socio-economic development**, inquiring into complaints, and making recommendations, among other functions.
- **Article 342A**, which deals with the powers of the President to notify a particular caste as an SEBC and the **power of Parliament to change the list**.

Supreme Court's observations:

◎ **The Maratha Reservation case:**

- ◎ The SC had ruled that **only the Centre** had the power to draw up the OBC list, as per the above interpretation of the Constitution (102nd Amendment) Act (**Article 342A only mentions the President & Parliament with no reference to states**)
- ◎ To reverse the verdict and to restore the **powers of the state governments** to maintain the state list of OBCs, Parliament passed the **127th Constitution Amendment Bill, 2021**
- ◎ Amendment in **Articles 366(26C) and 338B (9)**, after which states will be able to directly notify OBC and SEBCs without having to refer to the NCBC and the **"state list"** was being taken out of the domain of the President and will be notified by the Assembly.

2. CONSTITUTION (ONE HUNDRED AND FIFTH AMENDMENT) ACT, 2021

BACKDROP

The **105th Amendment Act of 2021** focuses on restoring the authority of state government to identify Other Backward Classes (OBCs) that are socially and economically backward.

What is the 105th Amendment Act?

- ◎ The **105th amendment Act** was brought through the **127th constitutional Amendment Bill**.
- ◎ The **Constitution (One Hundred and Fifth Amendment) Act, 2021**, often known as the 105th Constitutional Amendment to the Indian Constitution, restored the authority of State governments to recognise **socially and educationally backward classes (SEBCs)**.
 - Communities for which the State in India may give "special provisions" or affirmative action are classified as SEBCs, which includes the categories generally referred to as **Other Backward Classes (OBCs)**.



Amended Articles

- ◎ The **102nd Amendment** inserted **Article 338 B and Article 342 A**.
 - **Article 338B** gave constitutional status to NCBC
 - **Article 342A** gave the Central govt the power to maintain the OBC list to the Central Government
- ◎ The 105th Amendment amended these articles and added Article 366 (26C), which defined **Socially and Educationally Backward Classes (SEBC)**.

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3. 'CONSTITUTIONALITY' OF THE FIRST AMENDMENT ACT, 1951

BACKDROP

Recently, the **Supreme Court (SC)** has agreed to view the plea challenging the '**Constitutionality**' of the **First Amendment Act, 1951** which had put the reasonable restrictions under clause(2) of Article 19 (a) of Freedom of Speech and Expression.

Reasons behind Amendment:

- ⊙ To remove certain practical difficulties created by the court's decision in several cases such as **Kameshwar Singh Case, Romesh Thapar Case**, etc.
- ⊙ Issues involved in the cases included **freedom of speech**, acquisition of the **Zamindari land, State monopoly of trade**, etc.

The 1st Amendment Act, 1951:

- ⊙ Empowered the state to make special provisions for the advancement of socially and economically backward classes.
- ⊙ Provided for the saving of laws providing for the acquisition of estates, etc.
- ⊙ **Added Ninth Schedule** to protect the land reforms and other laws included in it from judicial review. After Article 31, Articles 31A and 31B were inserted.
- ⊙ Added three more grounds for restrictions on freedom of speech and expression: public order, friendly relations with foreign states, and incitement to an offense. Also, it made the restrictions '**reasonable**' and thus, justiciable in nature.
- ⊙ Provided that state trading and nationalisation of any trade or business by the state is not to be invalid on the **ground of violation of the right to trade or business**.

Amendments in response to issues against Freedom of Speech:

- ⊙ The Amendment included **Clause (2) under Article 19**, dealing with reasonable restrictions on the freedom of speech and expression guaranteed under **Article 19(1)(a)**.

- ⦿ The citizen's **right to practice any profession or to carry on any occupation, trade, or business conferred by article 19(1)(g)** is subject to **reasonable restrictions** which the laws of the State may impose **"in the interests of the general public"**.

Other Important Amendments to the Indian Constitution

Constitution (102nd Amendment) Act, 2018

- ⦿ This amendment, assented to by the President in August 2018, granted constitutional status to the **National Commission for Backward Classes (NCBC)**, which was established in 1993 with the making recommendations pertaining to the difficulties encountered by socially and educationally backward classes.
- ⦿ **Articles 338B and 342A** were added to the Constitution, providing certain powers and underlining the duties of the NCBC, in addition to empowering the President to specify socially and educationally backward classes in a state/union territory, while making Parliamentary approval mandatory for addition or deletion of a community from the Backward List of communities.

EWS Reservation - Constitution (103rd Amendment) Act, 2019

- ⦿ The 103rd Constitutional Amendment granted a **10 percent reservation status** to the **Economically Weaker Sections (EWS)** of citizens of India, in addition to the existing reservation quota already provisioned for socially and educationally backward classes.
- ⦿ The amendment to **Article 15 and 16** of the Constitution provides reservation for admission in Central Government run and private education institutions, along with Central Government jobs.

Constitution (104th Amendment) Act, 2020

- ⦿ Changes were made to **Article 334 of the Indian Constitution**, in order to extend the deadline on cessation (i.e., termination) of Lok Sabha seats reserved in Parliament, for Members from Scheduled Castes and Scheduled Tribes.
- ⦿ The reservation, which was scheduled to lapse on 26 January, 2020, was granted a 10-year extension under the **104th Constitutional Amendment**.
- ⦿ However, extension was not granted to the provision of reserving two Lok Sabha seats (and State Legislative Assembly seats) for members of Anglo-Indian Community, thus abolishing the practice under the Prime Minister's recommendation.

Fundamental Rights

1. RIGHT OF PRISONERS

BACKDROP

A Mumbai sessions court stated that searching under trial prisoners by stripping them violates their fundamental rights, privacy, and is considered humiliating.

What is the present situation?

- ⦿ 'Prisons' is a **State subject** under **State List** of the **Seventh Schedule** to the Constitution of India.
- ⦿ The management and administration of Prisons falls exclusively in the domain of the State Governments.
 - It is governed by the Prisons Act, 1894 and the Prison Manuals of the respective State Governments.
- ⦿ States have the primary role, responsibility and authority to change the current prison laws, rules and regulations

What are the rights of Prisoners?

Various fundamental rights under **Article, 14, 19, 20, 21 and 22 of the Constitution of India** impliedly deal with the rights of prisoners.

- ⦿ **Article 14** deals with right to equality which provides equality before law and equal protection of law to all persons.
- ⦿ **Article 20** deals, inter alia, with two things, firstly it prohibits double jeopardy, that is, no person should be convicted for same offence twice. Secondly, it prohibits self-incrimination, that is, no one can be compelled to be witness against himself.
- ⦿ **Article 21** deals with right to life and personal liberty.
- ⦿ **Article 22** provides that a person must be produced before magistrate within 24 hours of his arrest and must be provided with a counsel of this own choice.

Committees associated with prison reforms



- ⦿ Justice Amitabh Roy committee
- ⦿ Mulla committee
- ⦿ Krishna Iyer committee

2. RIGHTS OF CHILDREN

BACKDROP

The Constitution of India guarantees equality before the law to all citizens and pledges special protections for children. In reality, millions of children are being deprived of their fundamental rights due to the prevalence of child labour.

Policy interventions against Child labour in India:

- ⦿ **Child Labour Act (Prohibition and Regulation) 1986:** It prohibits children under the **age of 14 years** to be working in hazardous industries and processes.
- ⦿ **Child Labour (Prohibition & Regulation) Amendment Act 2016:** It prohibits the employment of children **below 14 years** in all employment and with the provisions for the prohibition on employment of **adolescents (14-18 Years)** in scheduled hazardous occupations and processes.
- ⦿ The **Child Labour (Prohibition & Regulation) Amendment Rules, 2017:** The Rules provide a broad and specific framework for the prevention, prohibition, rescue and rehabilitation of child and adolescent workers.



ILO Convention

- ⦿ **ILO's Convention No. 138** provides that the minimum age for admission to employment shall not be less than the age of completion of compulsory schooling.
- ⦿ The **ILO's adoption of Convention No. 182 in 1999** consolidated the global consensus on child labour elimination.

Latest Development

- ⦿ The Registration of Births and Deaths (Amendment) Bill, 2023, was recently introduced in Lok Sabha.
- ⦿ It amends the **Registration of Births and Deaths Act, 1969**. The Act provides for the regulation of registration of births and deaths.

Constitutional Provisions for Child Upliftment:

- ⦿ **Article 21 A: 'Right to Education':** The State shall provide free and compulsory education to all children of the **age of 6 to 14 years** in such manner as the State, by law, may determine.
- ⦿ **Article 24:** Prohibition of employment of children in factories
- ⦿ **Article 39:** The State shall, in particular, direct its policy towards securing, that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength.

Other important interventions

- ⦿ The National Commission for Protection of Child Rights was set up as a statutory body under the **Commission for Protection of Child Rights Act, 2005**, to protect, promote, and defend child rights in India.
- ⦿ The **86th Constitutional Amendment** made education a fundamental right for children in the age group of 6 to 14 years.

- ⊙ To protect the child's rights in India, There are various acts like the:
 - Juvenile Justice Act, 1986
 - the Child Labour (Prohibition and Regulation) Act, 1986
 - the Protection of Children Against Sexual Offense Act, 2012
- ⊙ **Birth registration and identity** are a child's first civil rights.

3. RIGHT TO MARRY

BACKDROP

The Supreme Court constitution bench, while hearing the batch of petitions seeking **recognition of same-sex marriage**, questioned whether anyone has a **fundamental right to marry** or there is no right at all.

What is Right to Marry?

- ⊙ Unlike **Article 16 of Universal Declaration of Human Rights**, the **right to marry** is not expressly recognized either as a fundamental or constitutional right under the Indian Constitution.
 - Though marriage is regulated through various statutory enactments, its recognition as a fundamental right has only developed through judicial decisions of India's Supreme Court.
 - Such declaration of law is binding on all courts throughout India under **Article 141** of the Constitution.
- ⊙ Article 21, which deals with the right to life and personal liberty, is an all-encompassing provision which includes within its fold the inherent right to marry someone of one's own choice.

Inherent Rights:

- ⊙ Right to speak
- ⊙ Right to associate

Is an Article 21 granted the right to marriage?

- ⊙ The freedom of choice in marriage in accordance with law is an intrinsic part of Article 21 of the Constitution and "questions of faith" have no bearing on a person's freedom to choose a life partner which is the essence of personal liberty.

4. RIGHT TO WEAR HIJAB

BACKDROP

The Karnataka government told the High Court that there is no restriction on wearing hijab in India with **reasonable restrictions** subject to institutional discipline and dismissed the charge that denial to wear the headscarf was a violation of **Article 15** of the Constitution, which prohibits discrimination of every sort.

Important Fundamental Rights involved

- ⦿ **Article 15** prohibits discrimination on grounds of religion, race, caste, sex or place of birth.
- ⦿ **Article 19(1)(A)** is related to the freedom of expression of the Indian constitution.
- ⦿ **Article 19(2)** says that nothing in sub clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence.
- ⦿ **Article 25(1)** of the Constitution guarantees the “freedom of conscience and the right freely to profess, practice and propagate religion”.
 - It is a right that guarantees negative liberty, which means that the state shall ensure that there is no interference or obstacle to exercising this freedom.
 - However, like all fundamental rights, the state can restrict the right for grounds of public order, decency, morality, health, and other state interests.

5. RIGHT TO SILENCE

BACKDROP

The **Supreme Court** (SC) has mentioned that all accused have a '**Right to Silence**' and investigators cannot force them to speak up or admit guilt as emphasising that the Constitution accords **every person a right against self-incrimination**.

Key Highlights of the Verdict

- ⦿ The **Right to silence** emanates from **Article 20(3) of the Indian Constitution**, “which states that no one can be compelled to be a witness against himself.”
- ⦿ The provision gives an accused the right against **self-incrimination, a fundamental canon of law**.
- ⦿ Under **criminal law jurisprudence**, it is considered the duty of the prosecution to prove a person guilty beyond reasonable doubt.
- ⦿ Until proven otherwise, the **accused remains innocent**.
- ⦿ An accused's decision to remain silent can be construed as a **negative inference** in certain circumstances but it cannot absolve the prosecution from its duty to prove the guilt of that person beyond reasonable doubts.
- ⦿ Referring to the constitutional **Right of every person to not speak against himself or to remain silent**, the court added that it cannot deprive a person of his **liberty merely because there is a statement that he has not admitted his crimes**.

Constitutional Provisions

- ⦿ **Article 20**: It grants protection against **arbitrary and excessive punishment** to an accused person, whether citizen or **foreigner or legal person** like a company or a corporation. It contains **three provisions** in that direction:

- It contains provisions related to **No ex-post-facto law, No double jeopardy, No self-incrimination.**
 - **No self-incrimination:** No person accused of any offence shall be compelled to be a witness against himself.
 - The protection against **self-incrimination** extends to both **oral evidence** and **documentary evidence.**
- ⊙ However, it **does not extend to:**
- Compulsory production of material objects,
 - Compulsion to give thumb impression, specimen signature, blood specimens, and
 - Compulsory exhibition of the body.
- ⊙ Further, it extends only to **criminal proceedings** and not to **civil proceedings or proceedings** which are not of criminal nature.

6. RIGHT TO BE FORGOTTEN (RTBF)

BACKDROP

The Centre has told the Delhi High Court that the right to be forgotten is **'evolving'**, which was held in the Supreme Court's **landmark Judgement in 2017** as a facet of the **'Right to Privacy'**.

- ⊙ The right to be forgotten, also known as the right to erasure, was established in the European Union in 2014.
- ⊙ In India, the Personal Data Protection Bill, 2019 provides for a mechanism to implement this concept, though it is not an absolute right.
- ⊙ In 2017, a nine-judge constitution bench headed by then Chief Justice JS Khehar ruled that the Right to privacy is an intrinsic part of the Right to Life and Personal Liberty under **Article 21** and entire Part III of the Constitution.

What is the Right to be forgotten?

- ⊙ It is the right to have publicly available personal information removed from the internet, search, databases, websites, or any other public platforms, once the personal information in question is no longer necessary, or relevant.
- ⊙ The RTBF gained importance after the 2014 decision of the Court of Justice of the European Union ("CJEU") in the **Google Spain case.**
- ⊙ In the Indian context, the Supreme Court in **Puttaswamy v. Union of India**, 2017 noted that the RTBF was a part of the broader right of privacy.
- ⊙ The RTBF emerges from the right to privacy under **Article 21** and partly from the right to dignity under **Article 14.**

What is the Right to Privacy?

- ⊙ In the **Puttaswamy v. Union of India case, 2017**, the Right to Privacy was declared a fundamental right by the Supreme Court.
- ⊙ The right to privacy is protected as an intrinsic part of the right to life and personal liberty under Article 21 and as a part of the freedoms guaranteed by Part III of the Constitution.

Some issues involved with this Judgement

- ⊙ **Privacy vs. Information:** It brings the person's right to be left alone, derived from Article 21, directly in conflict with the rights of the media to report on issues, flowing from Article 19.
- ⊙ **Enforceability against Private Individuals:** This raises the question of whether fundamental rights can be enforced against the private individual, which is generally enforceable against the state.
 - **Article 15(2), Article 17, and Article 23** are the only provision in the constitution of India that protects a private act of a private party that is challenged based on its violation of the Constitution.
- ⊙ **Misleading Judgements:** Courts in India have repeatedly either accepted or rejected the application of RTBF while completely ignoring the wider constitutional questions associated with it.
- ⊙ **Despotic Government:** Authoritarian governments can use this to remove information that puts them under a bad light or puts information out there that they wouldn't otherwise put out in the public domain.

7. RIGHTS OF PERSONS WITH DISABILITY

BACKDROP

The '**Accessible India Campaign**' (AIC) was launched for making government buildings, public transport and websites accessible for **Persons with disability (PwD)**.

The numbers

- ⊙ As per Census 2011, in India, out of the total population of 121 crore, **about 2.68 Cr persons are 'Disabled' (2.21% of the total population)**
- ⊙ Out of 2.68 crore, 1.5 crore are males and 1.18 crore are females.

Constitutional provisions

- ⊙ **Article 41** of the Directive Principles of State Policy (DPSP) states that State shall make effective provision for securing right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, within the limits of its economic capacity and development.
- ⊙ The subject of '**relief of the disabled and unemployable**' is specified in state list of the **Seventh Schedule** of the constitution.

Legislative backing for Disabled in India

- ⊙ **Rights of person with Disability Act, 2016:** The Act replaces the **Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995**.

Programmes and initiatives for PwD in India

- ⊙ **Accessible India Campaign : Creation of Accessible Environment for PwDs**
- ⊙ **National Fellowship for Students with Disabilities (RGMF)**
- ⊙ **DeenDayal Disabled Rehabilitation Scheme**
- ⊙ Assistance to Disabled Persons for Purchase / fitting of Aids and Appliances (ADIP)

8. RIGHT OF NATURE

BACKDROP

The Madras High Court in a recent order declared "Mother Nature" a Living Being with all corresponding rights, duties and liabilities of a living person.

The ruling:

- Madras High Court invoked the '**parens patriae jurisdiction**', and declared '**Mother Nature**' as a '**living being**' having the status of a legal entity.
- Justice S. Srimathy observed that the court is hereby declaring 'Mother Nature' a 'living being' having the **status of a legal person with all corresponding rights, duties and liabilities of a living person, in order to preserve and conserve it.**
- The court observed that 'Mother Nature' was accorded the rights akin to **fundamental rights, legal rights, constitutional rights for its survival, safety, sustenance and resurgence in order to maintain its status and also to promote its health and well-being.**

Parens patriae Jurisdiction:

- Parens patriae is Latin for "**parent of the people.**"
- Under parens patriae, a state or court has a paternal and protective role over its citizens or others subject to its jurisdiction.
- The doctrine of parens patriae is a **doctrine under which a state has third-party standing to bring a lawsuit on behalf of a citizen when the suit implicates a state's quasi-sovereign interests for the well-being of its citizens.**
- The parens patriae doctrine is also the doctrine in which all orphans, dependent children, and persons deemed incompetent are within the special protection, and under the control of the state.

The 2017 Uttarakhand High Court judgment:

- The Uttarakhand High Court granted legal rights to the heavily-polluted Yamuna and Ganga rivers in 2017.
- The court went on to declare all the glaciers, including Gangotri and Yamunotri, rivers, streams, rivulets, lakes, air, meadows, dales, jungles, forests wetlands, grasslands, springs, and waterfalls as living entities.

Other countries with similar judgments:

- **Ecuador:** The South American country became the first country in the world in 2008 to ratify a constitutional amendment to include nature's rights.
- **New Zealand:** New Zealand and its native Maori have recognised natural ecosystems as living beings. In 2017, New Zealand granted the Whanganui River the legal rights of a human being.

- **Columbia:** Citing the precedent set in New Zealand, the Constitutional Court of Columbia granted legal rights to the Atrato River, near the Panama border.
- **Australia, the United States** and Bangladesh are also some other countries that have acknowledged the legal rights to various natural ecosystems.
- **Bangladesh** in fact went a step ahead and declared all of the rivers in the country to be alive and entitled to legal rights.

9. RIGHT TO VOTE

BACKDROP

The Supreme Court described as paradoxical the fact that the **right to vote** has not been recognised as a **fundamental right in India**, despite **democracy being an essential facet of the Constitution**.
(*Bhim Rao Baswanth Rao Patil v. K Madan Mohan Rao and ors*).

Key Highlights

- The right to vote, based on an informed choice, is a **crucial component of the essence of democracy**.
- This right is precious and was the result of a long and arduous fight for freedom, for **Swaraj**, where the citizen has an inalienable right to exercise her or his right to franchise.
- Democracy has been held to be a part of one of the essential features of the Constitution.
- Yet, somewhat paradoxically, the right to vote has not been recognized as a Fundamental Right yet; it was termed as a "mere" statutory right.

Right to vote in India

- The Indian Constitution has granted the right to vote to all Indian citizens of sound mind above the age of 18, irrespective of an individual's caste, religion, social or economic status.
- This right is **universally granted to all Indians**, with a few exceptions.
- The right to vote in the Constitution of India is guaranteed under **Article 326**.
- It is actually a **constitutional right, not a fundamental right**.
 - The fundamental rights are applicable to everyone while constitutional rights are applicable on certain grounds.

Important features of Democracy



- Free, Fair and Frequent Elections
- Representation of Minorities
- Rule within the Constitutional Law
- Freedom of Speech, Expression and Choice
- Federal Rights
- Council Responsibility
- Right to Education
- Right to Form Association and Union
- Same Law for All
- No Control on Judiciary

10. EXPANSION OF ARTICLE 19 AMBIT

BACKDROP

The Supreme Court has supported a case on question of whether "a fundamental right under **Article 19 or 21** of the Constitution of India be claimed other than against the 'State' or its 'instrumentalities'.

About the Judgement:

- ⦿ The court ruled that a citizen can seek enforcement of the fundamental rights to **freedom of speech** not just **against the state** but extended the ground for seeking these rights **against other citizens**.
- ⦿ As said under the **4-1 majority** ruled by the Constitution Bench:
 - A fundamental right under **Article 19 and Art.21** can be enforced even against persons other than the **State or its instrumentalities**.
 - The case of heard in view that the right of free speech and expression guaranteed under the **Article 19(1)(a)** cannot be curbed by any **additional grounds** other than those already laid down in **Article 19(2)**.

Constitutional Backing:

- ⦿ **Article 19** which guarantees freedom of speech and expression is a right invoked against the state.
- ⦿ Some fundamental rights such as those prohibiting untouchability, trafficking and bonded labour are explicitly against **both the state and other individuals**.

Significance:

- ⦿ The court, extending free speech against **private citizens**, opens up a range of possibilities in Constitutional law.
- ⦿ This interpretation could also bring an **obligation on the state to ensure private entities** also abide by Constitutional norms.

These questions could hypothetically range from seeking enforcement of privacy rights against a **private doctor** to seeking the right to free speech against a **private social media entity**.

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Philosophy of the Indian Constitution

Directive Principle of State Policy

1. CONSTITUTIONAL VALIDITY OF EWS QUOTA

CONTEXT

The Supreme Court of India recently ruled that **10 percent reservation for economically weaker sections (EWS)** is constitutional and does not violate the basic structure of the Constitution of India. The reservation is mentioned in Article 46 of Part IV of the Constitution of India, which contains Directive Principles of State Policy (DPSPs).

What is DPSP?

- ⦿ The Directive Principles of State Policy (DPSP) are some ideals set for the Indian society and it is emphasised from time to time that it is the duty of India and each of the states to apply these guidelines and principles while making laws.
- ⦿ The DPSP is a comprehensive social, economic, and political set of principles for a modern welfare state.
- ⦿ **Nature:** These principles, unlike Fundamental Rights, are non-binding and unenforceable in nature. It means, the violation of these principles cannot be contested in court.
 - They impose a moral obligation on the state that the government 'shall' try to promote the welfare of people and social justice.
- ⦿ **Concerned Articles:** In the Indian Constitution, Articles 36 to 51 fall under the DPSP segment.
- ⦿ **Source:** The source of the concept of DPSP is the Spanish Constitution. From Spanish Constitution, it was taken into the Irish Constitution. And the Indian Constitution took it.



Cases associated with Fundamental Rights and DPSP

- ⦿ Champakam Dorairajan Vs the State of Madras
- ⦿ Golaknath Vs the State of Punjab
- ⦿ Keshavananda Bharati Vs the State of Kerala

Classification of DPSP

- ⦿ DPSPs are generally divided into three categories:

- ⊙ **Socialistic principles:** These set of principles can be found in **Articles 38 to 47**. Here, the DPSP talks about bringing socialistic values to society and provide several kinds of facilities to the people.
- ⊙ **Gandhian principles:** These set of principles try to enact the vision of Mahatma Gandhi. They can be found in **Articles from 40 to 48**, except the **44th article**.
- ⊙ **Liberal-intellectual principles:** From **Articles 44 to 51**, the principles fall under this category. One of the most discussed topics of the Uniform Civil Code falls under this category and is enshrined in **Article 44**.

2. UNIFORM CIVIL CODE

CONTEXT

The Supreme Court of India (SC), in a hearing, stated that States have power to constitute committees on **Uniform Civil Code**.

'DIRECTIVE PRINCIPLES CALL FOR UCC'

- SC favours **UCC throughout India** as envisaged under Article 44 of the Directive Principles in the Constitution
- Cites **example of Goa**, says the **state has a UCC for all** irrespective of their religion and no provision for triple talaq
- Says Muslim men whose marriages are registered in Goa cannot practise polygamy
- Says **no attempt made to frame a UCC despite SC appeals** in Shah Bano and Sarla Mudgal cases
- Hindu laws codified in 1956

“ It is interesting to note that whereas the founders of the Constitution in Article 44 in Part IV dealing with Directive Principles of state policy had hoped and expected that the state shall endeavour to secure for the citizens a uniform civil code throughout the territories of India, till date no action has been taken in this regard

—SUPREME COURT BENCH

What is Uniform Civil Code (UCC)?

- ⊙ UCC refers to that part of the law that deals with the family affairs of an individual and denotes uniform law for all citizens, irrespective of his/her religion, caste or tribe.
- ⊙ The common areas covered by a civil code include:
 - Personal Status
 - Rights related to the acquisition and administration of property
 - Marriage, divorce and adoption

UCC in the Constitution

- ⊙ In **Part 4** of the Constitution, the **Directive Principles of State Policy (DPSP)** figure from **Articles 36 to 51**. And **Article 44** is the one that talks about a **Uniform Civil Code**.

- According to this, a uniform civil law should be made for all the citizens of the country.
- It states that the State shall endeavour to secure for the citizens, a uniform civil code throughout the territory of India.
- ⊙ The Constitution calls upon the state to apply UCC principles in making laws as these principles are fundamental in the governance of the country.

What are DPSPs?

- ⊙ The Directive Principles are ideal principles – while governments and citizens can be encouraged to follow them, they are not mandatory.
- ⊙ They are not "enforceable" in a court of law.
- ⊙ Considered as an ideal state of political governance, it is believed that if the state policy follows the Directive Principles, then public welfare and social harmony will increase.

DPSP and Fundamental Rights

- ⊙ Sometimes Directive Principles can also clash with the Fundamental Rights.
- ⊙ **Disputes between Fundamental Rights and Directive Principles** are understood and settled on the basis of parliamentary debates and judicial decisions.
- ⊙ There have been some landmark judgments on the clash between Directive Principles and Fundamental Rights. Two of the judgments are in the **Golaknath vs State of Punjab (1967)** and the **Kesavananda Bharti vs State of Kerala (1973)** cases.
- ⊙ On the basis of these decisions, it can be said that the **Parliament can amend the fundamental rights of the citizens**, but this amendment should not affect the "**basic structure**" of the **Constitution**.

Who can enact laws on the Uniform Civil code?

- ⊙ The Parliament is authorized to make laws on UCC, as per the Constitution of India, with the consultation of States.
 - This will be done by amending the Constitutional provisions.



State's power regarding UCC

- ⊙ As per **Entry 5 of List-III-Concurrent List**, Personal laws (intestacy and succession; will; marriage and divorce), relate to **the Seventh Schedule to the Constitution**, and hence, the States are also empowered to legislate upon them.

First implementing State

In India, **Goa is the only state** to have implemented the directive principle of the UCC and converted it into a law called the Goa Civil Code or the Goa Family Law. The Goa Civil Code is in force since Portuguese times and is considered a Uniform Civil Code. It is the set of civil laws that governs all the Goans irrespective of the religion or the ethnicity to which they belong.

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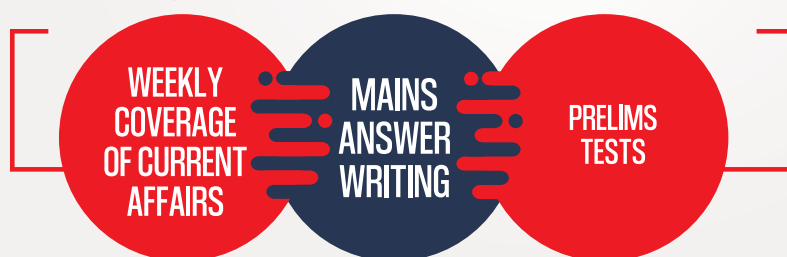
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22

Philosophy of the Indian Constitution

Schedules & Subjects

1. CASTE CENSUS & 7TH SCHEDULE

BACKDROP

The Supreme Court refused to entertain a batch of pleas challenging the Bihar Government's decision to conduct a caste survey in the State.

Points highlighted in the petition

- ◎ The subject of the survey falls in List 1 of the **7th Schedule** of the Constitution and only the Centre has the power to hold the exercise.

Three Lists in the Seventh Schedule

- ◎ Article 246 of the Constitution mentions three lists in the Seventh Schedule — union, state, and concurrent lists thereby affecting the delivery of public goods.
- ◎ The Three Lists are:
 - **Union List:** The Union list comprises those subjects on which only the Union Parliament may enact laws. Under this, subjects of national importance such as foreign affairs, railways, banking, Defence are included.
 - **State List:** It comprises those subjects on which the legislature to the state only can make laws such as public order, police, public health and sanitation, betting and gambling and others.
 - **Concurrent List:** This list includes those subjects on which both Union and State have concurrent powers, which includes education, population control and family planning, forests, criminal law, social and economic planning, electricity, marriage, and divorce and others.

What is Caste Census?

- ◎ It means inclusion of **caste-wise tabulation** of India's population in the Census exercise.
 - Census Exercise is a decennial count of the Indian population.

- ⦿ From 1951 to 2011, every census in India has published the population of **Scheduled Castes and Scheduled Tribes**, along with the gamut of data including religions, languages, socio-economic status, etc.
- ⦿ It, however, has never counted **OBC's, the lower and intermediate castes**, which according to the **Mandal commission** make up around **52 per cent of the country's population**.
- ⦿ All castes other than Scheduled Castes and Scheduled Tribes are counted under the **general category**.
- ⦿ The last caste census was conducted in 1931. All caste data are projected on its basis. It became the basis for quota caps under the Mandal formula.

2. LADAKH'S FIGHT FOR SIXTH SCHEDULE STATUS

BACKDROP

In bid to seek sixth schedule of the Indian constitution and Statehood to the eco-fragile region of Ladakh, Environmentalist Sonam Wangchuk started a six-day climate fast.

- ⦿ **The Leh Apex Body (LAB) and the Kargil Democratic Alliance (KDA)** has jointly put forward a **four-point agenda** to drive the agitations in the **UT of Ladakh as follows**:
 - Statehood for Ladakh
 - Safeguards under the Sixth Schedule of the Constitution
 - Formation of Public Service Commission and job reservation for Ladakh youth
 - Creation of two separate parliamentary constituencies for Leh and Kargil
- ⦿ This alliance between **Leh and Kargil is historic**, given that the two communities have been divided politically and religiously for over six decades.

About the Sixth Schedule:

- ⦿ The Sixth Schedule of the **Constitution of India** consists of provisions for the administration of tribal areas in north eastern states of **Assam, Meghalaya, Mizoram and Tripura**, according to **Article 244 of the Constitution**.
- ⦿ Passed by the Constituent Assembly in 1949, the Sixth Schedule seeks to safeguard the rights of **tribal population** through the formation of **Autonomous District Councils (ADC)**.
- ⦿ ADCs are bodies representing a district to which the Constitution has given varying degrees of autonomy within **the state legislature**.
- ⦿ Along with protecting the tribal population, the Schedule provides autonomy to the communities through creation of **autonomous development councils (ADCs)** which are empowered to frame laws on land, public health, agriculture and others.

Autonomous District Councils (ADCs):

- ⦿ They are the **autonomous administrative divisions** that have some **legislative, judicial, and administrative autonomy** within a state.

- ⦿ ADCs have up to **30 members** with a **term of five years**.
- ⦿ It can make laws, rules and regulations with regard to land, forest, water, agriculture, village councils, health, sanitation, village- and town-level policing, **inheritance, marriage and divorce, social customs** and mining, etc.

Understanding the 'crux' of Ladakh's demand?

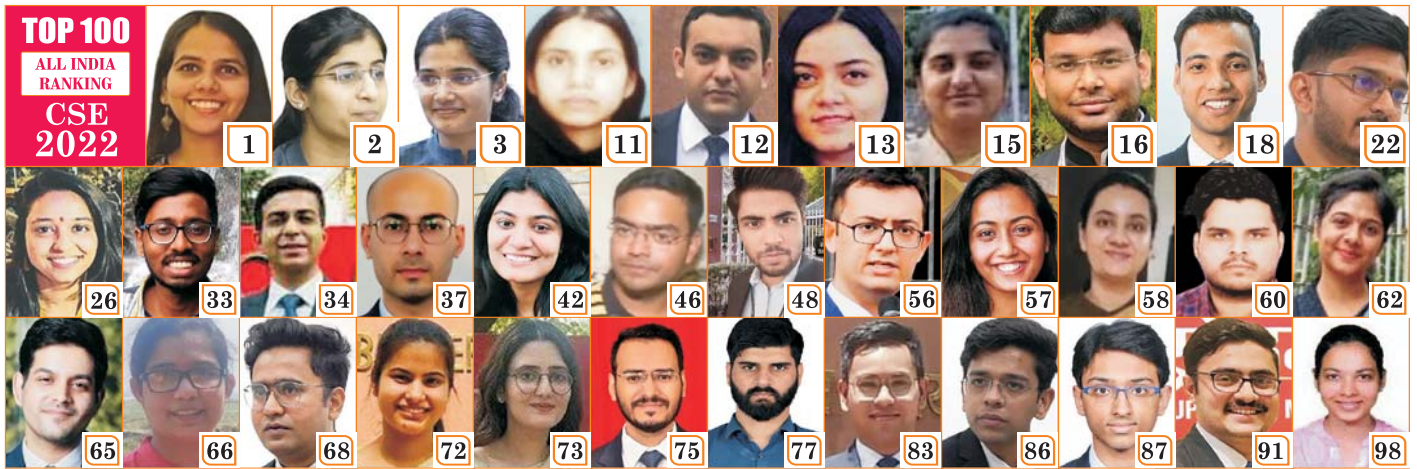
- ⦿ The demand is for the **local Councils** that should be empowered with legislative power by bringing them under the ambit of Sixth Schedule of **Article 244(1)** of the Constitution.
- ⦿ They demand a **Bodoland-type power** arrangement that protects the rights of indigenous people over their land with legislative subjects that are exclusive to local governments without interference from Central Laws.
- ⦿ A similar provision under **Article 371 (A)** is given to other areas such as in Nagaland in respect of the religious, social practices, customary law of the **Nagas**.

Can Ladakhis be described as 'vulnerable' community?

- ⦿ Ladakh is known as a part of the **global Buddhist civilisation** or **Islamic heritage** that cannot be described as a '**primitive**' or '**vulnerable**' community.
- ⦿ **Diverse and rich cultural setting:** Ladakh is historically perceived as a cosmopolitan region with centuries of multiple cultural settings. It was an Asian pivot – the people here traversed diverse cultural boundaries and engaged with ideas.
- ⦿ Its Buddhist community resembles nothing like the **Chakma tribes in the Northeast**.
- ⦿ The **Baltis and Purigs of Kargil** cherish their rich Persian Shia and Sufi heritages.
- ⦿ **Social Features:**
 - **High education level:** The region had the **highest literacy rate (82 percent)** in J&K.
 - **Social equality:** A great deal of social equality exists; the women enjoy high status in every aspect of life.
 - **Elite population:** It has a highly westernised **Buddhist and Balti elite** which send children to study in India's top-public schools.

What is the ground to ask for sixth schedule status?

- ⦿ The demand from the local tribal communities in Ladakh is to **extend the provisions of the Sixth Schedule** to the region.
- ⦿ This was primarily driven by concerns over the **protection of tribal rights** and the **preservation of the unique cultural identity** of the local communities.



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