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DAILY NEWS ANALYSIS

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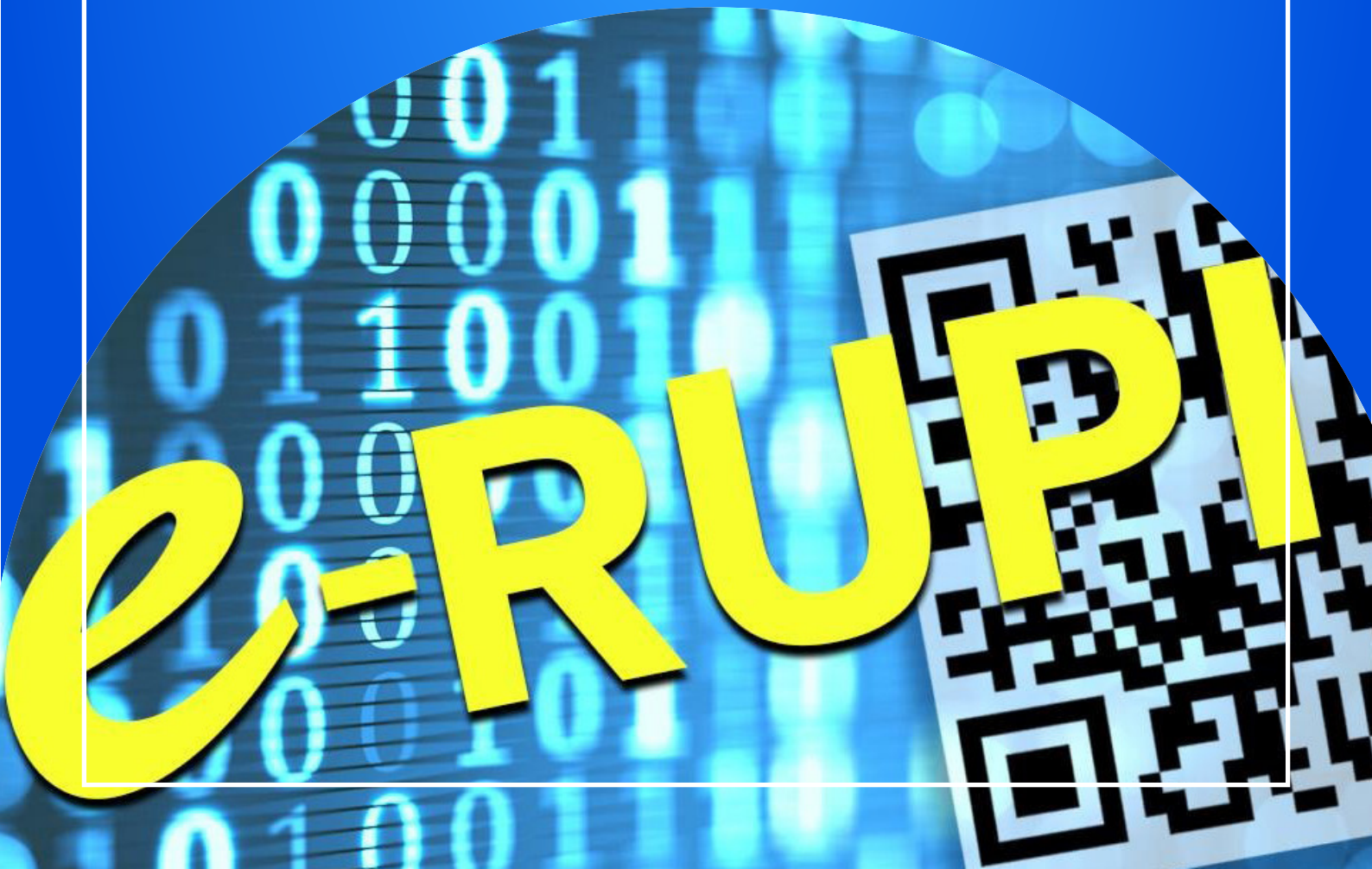

FOREWORD

We, at Team Vedhik is happy to introduce a new initiative - “Vedhik - Daily News Analysis (DNA)_The Hindu” compilations to help you with UPSC Civil Services Examination preparation. We believe this initiative - “Vedhik - Daily News Analysis (DNA)_The Hindu “ would help students, especially beginners save time and streamline their preparations with regard to Current Affairs. A content page and an Appendix has been added segregating and mapping the content to the syllabus.

It is an appreciable efforts by Vedhik IAS Academy helping aspirants of UPSC Civil Services Examinations. I would like to express my sincere gratitude to Dr. Babu Sebastian, former VC - MG University in extending all support to this endeavour. Finally I also extend my thanks to thank Ms. Shilpa Sasidharan and Mr. Shahul Hameed for their assistance in the preparing the compilations.

We welcome your valuable comments so that further improvement may be made in the forthcoming material. We look forward to feedback, comments and suggestions on how to improve and add value for students. Every care has been taken to avoid typing errors and if any reader comes across any such error, the authors shall feel obliged if they are informed at their Email ID.

CONTENTS

Lula da Silva defeats Bolsonaro in Brazil presidential election

Reuters
SAO PAULO/BRASILIA

Brazilian leftist leader Luiz Inacio Lula da Silva narrowly defeated President Jair Bolsonaro in a run-off election, but the far-right incumbent did not concede defeat on Sunday, raising concerns that he might contest the result.

The Supreme Electoral Court declared Mr. Lula the next President, with 50.9% of votes against 49.1% for Mr. Bolsonaro. The inauguration is scheduled for January 1.

It was a stunning comeback for the former President and a punishing blow to Mr. Bolsonaro, the first Brazilian incumbent to lose a presidential race.

"So far, Bolsonaro has not called me to recognise my victory, and I don't know if he will call or if he will recognise my victory," Mr. Lula told tens of thousands of jubilant supporters celebrating his win on Sao Paulo's Paulista Ave.

Luiz Inacio Lula da Silva

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Lula defeats Bolsonaro in Brazil election

In contrast to Mr. Bolsonaro's silence, congratulations for Mr. Lula poured in from foreign leaders, including U.S. President Joe Biden, Russian President Vladimir Putin, German Chancellor Olaf Scholz, French President Emmanuel Macron, and Prime Minister Narendra Modi.

The vote was a rebuke for the fiery far-right populism of Mr. Bolsonaro, who emerged from the back benches of Congress to forge a novel conservative coalition but lost support as Brazil ran up one of the worst death tolls of the coronavirus pandemic.

U.S. plans to deploy B-52s to Australia amid China tensions

Reuters
SYDNEY

The United States is planning to deploy up to six nuclear-capable B-52 bombers to an air base in northern Australia, amid heightened tensions with China.

Dedicated facilities for the bombers will be set up at the Royal Australian Air Force's remote Tindal base, about 300 km south of Darwin, the capital of Australia's Northern Territory.

The development was first reported by the Australian Broadcasting Corp's Four Corners programme, citing U.S. documents.

Prime Minister Anthony Albanese said Australia engages with the United States on defence alliances "from time to time".

The U.S. earlier deployed four B-52s in Guam, a U.S. island territory in the Western Pacific.

Australia's Northern Territory is already host to frequent military collaborations with the U.S.

When asked for a comment at a regular briefing on Monday, Chinese Foreign Ministry spokesman Zhao Lijian said defence and security cooperation between countries should not target third parties.

A pathway to citizenship for Indian-origin Tamils

The Supreme Court of India has now posted the 232 petitions challenging the Citizenship (Amendment) Act (CAA) to be heard on December 6, 2022. However, there is another issue linked to the subject, i.e., the unresolved status of Indian-origin Tamils who repatriated from Sri Lanka. For over four decades, nearly 30,000 Indian-origin Tamils have been classified as stateless persons, based on technicalities. Given their genealogical link to India, the Government of India needs to consider extending citizenship benefits to them in accordance with Indian bilateral obligations and international humanitarian principles and international conventions.

Plight of Indian-origin Tamils

Under the British colonial government, Indian-origin Tamils were brought in as indentured labourers to work in plantations. They remained mostly legally undocumented and socially isolated from the native Sri Lankan Tamil and Sinhalese communities due to the policies of the British. After 1947, Sri Lanka witnessed rising Sinhalese nationalism, leaving no room for their political and civil participation. They were denied citizenship rights and existed as a 'stateless' population, numbering close to 10 lakh by 1960. As an ethno-linguistic minority without voting rights, this resulted in a double disadvantage till the two national governments addressed this issue.

Subsequently, under the bilateral Sirimavo-Shastri Pact (1964) and the Sirimavo-Gandhi Pact (1974), six lakh people along with their natural increase would be granted Indian citizenship upon their repatriation. Thus, the process of granting Indian-origin Tamils (who returned to India till around 1982) began. However, the Sri Lankan civil war resulted in a spike in Sri Lankan Tamils and Indian-origin Tamils together seeking asylum in India. This resulted in a Union Ministry of Home Affairs directive to stop the grant of citizenship to those who arrived in India after July 1983.

Manuraj Shunmuga sundaram

is an advocate practising before the Madras High Court and Spokesperson, Dravida Munnetra Kazhagam (DMK)

Besides its bilateral obligations and international humanitarian principles and conventions, there are recent judgments to guide India in having an expanded and liberal interpretation of the Citizenship (Amendment) Act

Furthermore, the focus of the Indian and Tamil Nadu governments shifted to refugee welfare and rehabilitation. Over the next 40 years, the legal destiny of Indian-origin Tamils has been largely intertwined with that of Sri Lankan Tamil refugees, and both cohorts have been relegated to 'refugee' status. This is because Indian-origin Tamils who arrived after 1983 came through unauthorised channels or without proper documentation, and came to be classified as 'illegal migrants' as per the CAA 2003. This classification has resulted in their statelessness and blocking of potential legal pathways to citizenship.

Overcoming statelessness

While constitutional courts have not had an occasion to deal with the question of statelessness, there have been two recent judgments (Madurai Bench of the Madras High Court, Justice G.R. Swaminathan), taking these issues head on. In *P. Ulaganathan vs Government of India* (2019), the status of citizenship of Indian-origin Tamils at the Kottapattu and Mandapam camps came up for consideration.

The court recognised the distinction between Indian-origin Tamils and Sri Lankan Tamils and held that a continuous period of statelessness of Indian-origin Tamils offends their fundamental right under Article 21 of the Constitution of India. The court further held that the Union Government has implied powers to grant relaxation in conferring citizenship and prescribed that a humanitarian approach, shorn of the rigours of law, should be adopted.

On October 11, the court held in *Abirami S. vs The Union of India* 2022, that statelessness is something to be avoided. The court further held that the principles of the CAA, 2019, which relaxes the conditions for citizenship for Hindus from Afghanistan, Pakistan and Bangladesh, would also apply to Sri Lankan Tamil refugees. As such, these judgments have provided categorial judicial guidance to the Union of India on how to utilise an expanded and liberal interpretation of the CAA, 2019 to overcome statelessness.

The situation of statelessness of Indian-origin Tamils is '*de jure*', created from the failure in implementing the 1964 and 1974 pacts. *De jure* statelessness is recognised in international customary law. Therefore, India has an obligation to remedy the situation. In the case of the Chakma refugees, the Supreme Court (*Committee for C.R. of C.A.P. and Ors. vs State of Arunachal Pradesh* 2015) held that an undertaking made by the Government of India with respect to grant of citizenship inheres a right in the stateless or refugee population. As such, India has made repeated undertakings, through the 1964 and 1974 pacts, which have created a legitimate expectation among the Indian-origin Tamils and would entitle them to be granted citizenship.

Remedying statelessness is not a novel process in law. While dealing with a similar situation, in 1994, the United States enacted the Immigration and the Nationality Technical Corrections Act to retroactively grant citizenship to all children born to an alien father and citizen mother. Similarly, Brazil, through the Constitutional Amendment No. 54 of 2007 retroactively granted citizenship to children under *jus sanguinis*, which was earlier stripped by an earlier amendment, i.e., Constitutional Amendment No. 3 of 1994. Therefore, any corrective legislative action by the Government of India to eliminate statelessness should necessarily include retroactive citizenship for Indian-origin Tamils.

According to a recent report by the United Nations High Commission for Refugees, "Comprehensive Solutions Strategy for Sri Lankan Refugees", there are around 29,500 Indian-origin Tamils currently living in India. As such, when the Union Government makes its case before the Supreme Court to extend citizenship to Indian-origin persons from Pakistan, Afghanistan and Bangladesh seeking asylum in India, it cannot deny Indian-origin Tamils their rightful pathway to citizenship.

Inputs from Sheeba Devi L., advocate

Sequence of implementation, EWS quota outcomes

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Tayfun Sönmez

is Professor of Economics at Boston College

The original intent of the reservation policy in newly independent India was to level the playing field for the most marginalised sections, those stigmatised and discriminated against on account of their birth into specific caste and tribal groups. While these groups were also economically deprived, that was not the main rationale for instituting compensatory discrimination in favour of these groups.

Over the decades, the instrument of reservation has expanded to include more groups under its ambit, leading to furious debates both about the general principle of affirmative action and about which groups deserve to be beneficiaries. These disputes have resulted in complex legal cases, with the rulings providing the nuts-and-bolts mechanics that guide the implementation of the reservation policy on the ground.

This article draws attention to a crucial impending implementation decision about the economically weaker sections (EWS) quota, and shows how the sequence of implementation would result to diverging outcomes.

The reservation system in India takes two forms: vertical reservation (VR), which until 2019 was defined for stigmatised and marginalised social groups (SCs, STs and OBCs); and horizontal reservation (HR), applicable to cross-cutting categories such as women, people with disability (PWD), domicile, etc. As long as the VR system was social group-based, no individual was eligible for multiple VR categories, since no individual can belong to multiple caste or tribal groups.

The 103rd Constitution Amendment Act in 2019, popularly known as the 10% quota for the so-called EWS, fundamentally altered the original raison d'être of reservations by opening VR to groups that are not defined in terms of hereditary social group identity (caste or tribe). EWS status is transient (that individuals can fall into or escape out of), but social groups are permanent markers of identity.

While this meant that in principle, an individual could belong to two VR categories (say, SC and EWS), the amendment explicitly removed individuals who are already eligible for one VR (SC, ST, or OBC) from the scope of EWS reservations. As a result of this exclusion, an individual could still be only eligible for at most one vertical category.

Exclusion of SCs, STs, OBCs from the scope of EWS reservation was immediately challenged in court on the grounds that it violated individual right to equality (that roughly corresponds to Articles 14-18 of the Indian Constitution).

On the last day of hearings at the Constitutional Bench of the Supreme Court, the following "compromise" proposal was made by G. Mohan Gopal: do not revoke the amendment but interpret the language of the amendment in a way that does not exclude SCs, STs, OBCs from the scope of EWS reservation.

Overlapping VR categories and ambiguity

Allowing for overlapping VR categories (such as SC and EWS, etc.) generates an important ambiguity under the current legal framework, most notably stemming from the ruling of the Indra Sawhney case (1992). Under this, any member of a reserved category who is entitled to an open-category position based on "merit" (examination) score should be awarded an open-category position, and not be slotted under a VR position. Technically, this implies that open-category positions must be allocated based on merit in the first step, and VR positions should be allocated to eligible individuals in the second step. This procedure is called "over-and-above" choice rule in the literature. This is to be distinguished from the "guaranteed minimum" rule which would guarantee a minimum number of positions to members of beneficiary groups, regardless of whether they enter through reserved or open ("merit") positions.

When VR categories are mutually exclusive, i.e., no individual can be a member of multiple vertical categories, it is completely immaterial in what sequence vertical categories are processed in relation to each other. However, if individuals can belong to two vertical categories, the relative processing sequence of vertical categories becomes very important, as Sönmez and his fellow economist Utku Ünver show in their 2022 paper.

How will sequencing matter? EWS-first: Consider the scenario where EWS positions before other VR categories, immediately after the open category seats. In her 2019 paper with economist Rajesh Ramachandran, Deshpande shows that under the current income limit for EWS reservation, more than 98% of the population qualifies, i.e., almost everyone is eligible for EWS reservation. If EWS reservations are filled first, the outcome would be the same as treating EWS positions as open positions.

This would effectively end up making the EWS reservation redundant. Since the richest applicants are not eligible for EWS, the actual outcome would be slightly different, but not a whole lot as the richest 2% may not even apply to public institutions where quotas are applicable.

EWS-last: If EWS positions are allocated after all other VR positions are filled, this issue will not arise. Now, while all individuals with incomes lower than the EWS limit are equally eligible for EWS positions (which is still effectively all individuals), the system awards the EWS positions to eligible individuals who have highest merit scores. But since some of the higher score individuals from SCs, STs and OBCs would be admitted under their respective quotas, this sequencing will make EWS positions more accessible to members of forward castes.

On which sequence is better

The purpose of this article is to demonstrate that two routes imply very different policy outcomes. We are highlighting the fact that overlapping VR categories lead to a major ambiguity (or loophole) in the system. If the objective is to make EWS equally applicable to the current VR categories, then EWS-first should be adopted with the recognition that this sequencing will effectively convert EWS into what are currently open category positions. If the objective is to minimally interfere with the amendment, then EWS-last should be adopted with the recognition that this sequencing will still tilt the EWS category in favour of forward castes. Since the impact of these two routes will be vastly different, it would be best if this subtle aspect of EWS reservation is carefully evaluated and integrated into the implementation of the policy.

What if the current income limit of the EWS category is changed (lowered)? That would change the calculus somewhat since poorer individuals from all social groups (including non-SC-ST-OBC) would be eligible. In this scenario, the richer (above the presumed new income cut-off) SC-ST-OBC individuals will be eligible only for the social group-based VR positions. However, changing income limits is likely to open a whole new Pandora's box, especially in the absence of reliable income data. Realistically, shifting the income cut-off for EWS seems unlikely.

Therefore, the court would be well-advised to consider the implications of the implementation routes and to make sure there are no ambiguities, i.e., no loopholes. Ambiguities in reservation rules have led to court cases, leading to long delays in filling up positions. Given the enormity of the unemployment situation, as well as the importance of addressing social cleavages, the urgency of working out an optimal implementation strategy cannot be overstated.

The judiciary needs to note a subtle aspect of economically weaker sections' (EWS) reservation, i.e., first or last, in ensuring that there is an optimal implementation strategy

Matter of law: The 103rd Constitution Amendment Act introduces reservations for 'economically weaker sections' in education and employment. R. V. MOORTHY

The ambiguity of reservations for the poor: unconstitutional or not?

While the constitutional amendment by itself might survive the 'basic structure' test, the hardest test for governments will be the manner in which they give effect to the amendment. The definition of 'economically weaker sections' will be a major hurdle

Anup Surendranath

On September 27, a Constitution Bench led by CJI U. U. Lalit heard multiple petitions against reservations based solely on economic criteria introduced by the Constitution (103rd) Amendment Act, 2019. After extensive hearings, the Bench reserved its judgment in the case. In this article dated January 22, 2019, Anup Surendranath tackles the idea that EWS reservations are unconstitutional.

The 103rd Constitution Amendment Act introducing special measures and reservations for 'economically weaker sections' (EWS) has been perceived as being obviously unconstitutional. This article is sceptical of such a reading and takes the view that a constitutional challenge to the amendment will take us into unclear constitutional territories. The strongest constitutional challenge might not be to the amendment itself but to the manner in which governments implement it. There is no foregone conclusion to a potential challenge and we would do well to start identifying the core constitutional questions that arise. To be clear, I am here concerned only with questions that arise within constitutional law.

Special measures

Article 15 stands amended enabling the state to take special measures (not limited to reservations) in favour of EWS generally with an explicit sub-article on admissions to educational institutions with maximum 10% reservations. The amendment to Article 16 allows 10% reservations (and not special measures) for EWS in public employment and does so in a manner that is different from reservations for Scheduled Caste/Scheduled Tribes and Other Backward Classes. The amendment leaves the definition of 'economically weaker sections' to be determined by the state on the basis of 'family income' and other economic indicators. Also critical to this amendment is the exclusion of SC/STs, OBCs and other beneficiary groups under Articles 15(4), 15(5) and 16(4) as beneficiaries of the 10% EWS reservation.

A good point to start the constitutional examination is the Supreme Court's view on reservations based purely on economic criteria. Eight of the nine judges in *Indra Sawhney* (November 1992) held that the Narasimha Rao government's executive order (and not a constitutional amendment) providing for 10% reservations based purely on economic criteria was unconstitutional. Their reasons included the position that income/property holdings cannot be the basis for exclusion from government jobs, and that the Constitution was primarily concerned with addressing social backwardness.

Basic structure doctrine

However, the decision in *Indra Sawhney* involved testing an executive order against existing constitutional provisions. In the current situation, we are concerned with a constitutional amendment brought into force using the constituent power of Parliament. The fact that we are not concerned with legislative or executive power means that the amendment will be tested against the 'basic structure' and not the constitutional provisions existing before the amendment. The pointed question is whether measures based purely on economic criteria violate the 'basic structure' of the Constitution? I do not think it is a sufficient answer to say that 'backwardness' in the Constitution can only mean 'social and educational backwardness'. Citing the Constituent Assembly debates is not going to take the discussion much further either. It is difficult to see an argument that measures purely on economic criteria are per se violative of the 'basic structure'. We can have our views on whether such EWS reservations will alleviate poverty (and they most certainly will not), but that is not really the nature of 'basic structure' enquiry. Providing a justification for these measures as furthering the spirit of substantive equality within the Indian Constitution is not very difficult.

Economic criteria (if seen as poverty) forms the basis for differential treatment by the state in many ways and it would be a stretch to suddenly see it as constitutionally suspect when it comes to 'special measures' and reservations in education and public employment. Poverty inflicts serious disadvantages and the prerogative of the state to use special measures/ reservations as one of the means to address it (however misplaced it might be as a policy) is unlikely to fall foul of the 'basic structure' doctrine.

A challenge to the amendment may lie in the context of Article 16 by virtue of shifting the manner in which reservations can be provided in public employment. Under Article 16(4), reservations for backward classes (SC/STs, OBCs) are dependent on beneficiary groups not being 'adequately represented' but that has been omitted in the newly inserted Article 16(6) for EWS. The amendment through Article 16(6) ends up making it easier for the state to provide reservations in public employment for EWS than the requirements to provide reservations for 'backward classes' under Article 16(4). In a sense that is potentially a normative minefield for the Supreme Court. On the one hand, it is confronted with the reality that 'backward classes' like SC/STs and OBCs are disadvantaged along multiple axes and on the other, it is now far more difficult for the state to provide reservations to these groups compared to the EWS. The response might well be that 'representation' is not the aim of EWS reservation and questions of 'adequacy' are relevant only in the context of representation claims like those of the backward classes under Article 16(4).

Questions and challenges

In many of the responses to the amendment, breaching the 50% ceiling on reservations has been cited as its greatest weakness. It is hard to see the merit of that argument because the amendment by itself does not push the reservations beyond 50%. While it might be a ground to challenge the subsequent legislative/executive actions, the amendment itself is secure from this challenge. But even beyond this narrow technical response, the 50% ceiling argument is far from clear. In *Indra Sawhney* , the majority of judges held that the 50% ceiling must be the general rule and a higher proportion may be possible in 'extraordinary situations'. Fundamentally this argument stems from an unresolved normative tension in *Indra Sawhney*. While committing to the constitutional position that reservations are not an 'exception' but a 'facet' of equality, the majority in *Indra Sawhney* also invokes the idea of balancing the equality of opportunity of backward classes 'against' the right to equality of everyone else. When governments implement the EWS reservations and push quotas beyond 50%, the Supreme Court will be forced to confront this normative tension. If reservations further equality, what then are the justifications to limit it to 50% when the identified beneficiaries constitute significantly more than 50%? The answer to that question might lie in *Indra Sawhney*'s position that the constitutional imagination is not one of 'proportional representation' but one of 'adequate representation'. However, as discussed above, if abandoning the 'adequacy' requirement per se is upheld for EWS reservations, the basis for a 50% ceiling becomes unclear.

While the constitutional amendment by itself might survive the 'basic structure' test, the hardest test for governments will be the manner in which they give effect to the amendment. The definition of 'economically weaker sections' will be a major hurdle because the political temptation will be to go as broad as possible and include large sections of citizens. But broader the definition, greater will be the constitutional risk. For example, if beneficiaries are defined as all those with family income of less than ₹8 lakh per annum, it must necessarily fail constitutional scrutiny. To justify that an individual 'below poverty line' and another with a family income of ₹8 lakh per annum belong to the same group for purposes of affirmative action will involve constitutional jugglery at an unprecedented level. But then, the history of our constitutional jurisprudence has prepared us well for such surprises.

The author teaches constitutional law at the National Law University, Delhi

Affiliation not necessary for unrecognised madrasas to continue functioning: Jamiat

Ziya Us Salam
NEW DELHI

Unrecognised madrasas do not need to be affiliated with the Madrasa Education Board in various States to continue functioning, according to the Jamiat Ulama-e-Hind.

Unrecognised madrasas have been the subject of much discussion following the Uttar Pradesh government's decision to carry out a survey of all such institutions. "We do not need government aid for our mosques and madrasas, and there is no need for madrasas to get affiliated with any government board for obtaining aid," said Arshad Madani, president, Jamiat Ulama-e-Hind. His remarks came following a meeting of nearly 6,000 representatives of unrecognised madrasas from all over India at Darul Uloom, Deoband. The meeting included nearly 4,500 delegates from Uttar Pradesh alone.


Muslim clerics attending a conference convened by Darul Uloom Deoband in Saharanpur on Sunday. PTI

Over 90% of unrecognised madrasas in north and central India follow the Deoband syllabus. The Darul Uloom management, which had opposed the survey, later supported a limited survey about the madrasas' ownership and finances. Most of these institutions survive on community funding.

"The doors of madrasas are open to everyone. There is nothing to hide inside them. The Constitution of the country under Article 30(1) has given us the right to establish and run our own educational institutions. Rather than defying the government, we are helping in the development of the nation by spreading literacy among the poor," Mr. Madani said.

"The responsibility of religion rests on the shoulders of religious personalities. Imams, muezzins, muftis and quazis are products of madrasas who serve in various religious affairs of Muslims, just like priests and pujaris in temples and matters of marriage, death etc.," Mr. Madani added.

MHA allows 2 District Collectors in Gujarat to grant citizenship

The Hindu Bureau
NEW DELHI

The Ministry of Home Affairs (MHA) empowered the District Collectors of two more districts in Gujarat – Mehsana and Anand – to grant citizenship certificates to the members of Hindu, Sikh, Parsi, Christian, Buddhist and Jain communities from Pakistan, Afghanistan, and Bangladesh.

This is not the first-time the magistrates or collectors have been delegated such powers by the MHA. Similar orders were issued in 2016, 2018 and 2021 empowering District Magistrates in several districts of Gujarat, Chhattisgarh, Rajasthan, Haryana, and Punjab to grant citizenship certificates to migrants from the six communities who entered India on valid documents. The notification is not related to the contentious Citizenship Amendment Act (CAA) that is yet to come into effect. The CAA passed in 2019 seeks to grant citizenship to the six undocumented communities who came to India till December 2014.

The only way the CAA could have helped the legal minority migrants is in fast-tracking their applications as it reduces the mandatory requirement of stay in India to five years.

The notification said that the application should be made online and and the verification shall be done by the Collector at the district level and forwarded to Central agencies.

SC tells Centre not to file new sedition cases; govt. re-examining provisions

Appearing before CJI Lalit, the Attorney-General said that "something may happen" in the Winter Session of Parliament; court had ordered freeze of arrests and prosecution under Section 124A

The Hindu Bureau
NEW DELHI

The Supreme Court on Monday asked the government not to register any fresh FIRs under Section 124A of the Indian Penal Code (IPC), which criminalises sedition, even as the government said it is re-examining the colonial provision and "something may happen" in the Winter Session of Parliament.

Appearing before a Bench led by Chief Justice of India (CJI) U.U. Lalit, Attorney-General R. Venkataramani said no "transgressions" were brought to the Centre's notice since the Supreme Court had ordered a complete freeze of arrests and prosecution under Section 124A in an interim order in May.

"There is thinking on the subject and some change may happen before the Winter Session of Parliament. There is no reason to worry now with the interim order in place," Mr. Venkataramani assured..

> There is thinking on the subject and some change may happen before the Winter Session. There is no reason to worry now with the interim order in place
>
> **R. VENKATARAMANI**
> Attorney-General

"When is the Winter Session starting?" Chief Justice Lalit asked Mr. Venkataramani. The top law officer said by January.

The court listed the case for the second week of January. During the hearing, advocate Kaleeswaram Raj said the order had only kept Section 124A in abeyance, the provision needed to be struck down immediately rather than let it occupy space in the statute book indefinitely.

But the Bench said the government would have to abide by the interim order of May which suspended the sedition provision until further orders.

The court through its order in May had deftly protected civil liberties from local police and civil authorities who may continue to use Section 124A regardless of the Union's "re-examination process". The court had orally observed, before the order was passed, that guidelines hardly work at the "ground level" with local police officers and civil authorities.

SC to examine law depriving undertrials the right to vote

Krishnadas Rajagopal
NEW DELHI

The Supreme Court on Monday decided to examine a petition challenging a provision in the election law that imposes a blanket ban on undertrials, persons confined in civil prisons and convicts serving their sentence in jails from casting their votes.

A Bench led by Chief Justice of India (CJI) U.U. Lalit issued notice to the Union of India, the Union Home Ministry and the Election Commission on a petition filed by Aditya Prasanna Bhattacharya, a student of the National Law School of India University, Bengaluru, who said that while convicts out on bail could vote, undertrials, whose innocence or guilt has not been conclusively determined, and those confined in civil persons were deprived of their right to vote.

Mr. Bhattacharya, represented by advocate Zoheb Hossain, argued that Section 62(5) of the Representation of the People Act, 1951, mandates that "no person shall vote at any election if he is confined in a prison, whether under a sentence of imprisonment or transportation or otherwise, or is in the lawful custody of the police". Mr. Hossain contended that the provision arbitrarily, through the use of "broad language", disenfranchises a large segment of the population.

The petition said that "denying penitentiary inmates the right to vote is more likely to send messages that undermine respect for the law and democracy than messages that enhance those values... Denying the right to vote does not comply with the requirements for legitimate punishment".

The right to vote is a constitutional right under Article 326.

Decentralise MGNREGS for better implementation, says govt. study

It calls for greater diversification of permissible work; flexibility should be given at the ground level to select the type of work as per broad categories; it also flags delay in fund disbursal and notes that wages were far below the market rate

Sobhana K. Nair
NEW DELHI

An internal study commissioned by the Ministry of Rural Development has argued for decentralisation of the Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS), allowing for more "flexibility" at the ground level.

The Ministry recently made public the report of the sixth Common Review Mission, which surveyed seven States – Andhra Pradesh, Arunachal Pradesh, Karnataka, Nagaland, Gujarat, Jharkhand, Himachal Pradesh – and the Union Territory of Jammu and Kashmir in February to assess the implementation of all rural development schemes, including the MGNREGS.

"There should be a greater diversification of permissible works instead of listing the types of permissible works, broad categories of works may be listed out and flexibility should be given at ground level to select the type of works as per broad categories," the study noted.

Need of the hour: The study also noted that the MGNREGS wages were far below the market rate in many States, defeating the purpose of acting as a safety net. PTI

This is a problem also highlighted by activists and academics working in the field. "In the past few years, the fund management has been centralised instead of paying the gram sabhas an advance enabling them to decide the work they want to undertake. The gram sabhas can take into account the local conditions and the community's requirement instead of chasing a target set for them," said Professor Rajendra Narayanan of Azim Premji University, who co-authored a study on the role of the MGNREGS during the COVID-19 pandemic.

The internal study also flagged the frequent delay in fund disbursal, and to deal with it suggested a "revolving fund that can be utilised whenever there is a delay in the Central funds".

The survey quoted various instances to underline this chronic problem. In Lower Subansiri district of Arunachal Pradesh, for example, the surveyors found that because of the delay in the material component, the beneficiaries ended up buying the construction material themselves to complete the projects. In Himachal Pradesh and Gujarat, the delay in wages was by three or four months and the material component by six months.

The study also noted that the MGNREGS wages were far below the market rate in many States, defeating the purpose of acting as a safety net.

At present, the minimum wage of a farm labourer in Gujarat is ₹324.20, but the MGNREGS wage is ₹229. The private contractors pay far more. In Nagaland, the wage is ₹212 per day, which does not take into account the difficult terrain.

In Jammu and Kashmir, the rate is ₹214 per day. This, the study noted, "is lower than what is offered by private contractors which can go up to ₹600-₹700 per day".

The amendments to the IT Rules, 2021

Why did the Ministry of Electronics and IT invite feedback to the draft amendments of the the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021? What are the functions of the new Grievance Appellate Committees?

EXPLAINER

Trishee Goyal

THE GIST

- The Ministry of Electronics and IT (MeitY) has notified amendments to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (IT Rules, 2021) on October 28. The draft generated considerable discussion and comment on the regulation of social media in India.
- This proposed amendments can be broadly classified into two categories. The first category involved placing additional obligations on the SMIs to ensure better protection of user interests while the second category involved the institution of an appellate mechanism for grievance redressal. Both have been notified to the Rules.
- The amendments call for the institution of Grievance Appellate Committees (GAC). The committee is styled as a three member council out of which one member will be a government officer (holding the post ex officio) while the other two members will be independent representatives. The GAC is required to adopt an online dispute resolution mechanism which will make it more accessible to the users.

The story so far:

The Ministry of Electronics and IT (MeitY) has notified amendments to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (IT Rules, 2021) on October 28. In June 2022, MeitY had put out a draft of the amendments and solicited feedback from the relevant stakeholders. The draft generated considerable discussion and comment on the regulation of social media in India.

What are the IT Rules, 2021?

World over, governments are grappling with the issue of regulating social media intermediaries (SMIs). Given the multitudinous nature of the problem – the centrality of SMIs in shaping public discourse, the impact of their governance on the right to freedom of speech and expression, the magnitude of information they host and the constant technological innovations that impact their governance – it is important for governments to update their regulatory framework to face emergent challenges. In a bid to keep up with these issues, India in 2021, replaced its decade old regulations on SMIs with the IT Rules, 2021 that were primarily aimed at placing obligations on SMIs to ensure an open, safe and trusted internet.

What was the need to amend the IT Rules, 2021?

As per the press note accompanying the draft amendments in June 2022, the stated objectives of the amendments were threefold. First, there was a need to ensure that the interests and constitutional rights of netizens are not being contravened by big tech platforms, second, to strengthen the grievance redressal framework in the Rules, and third, that compliance with these should not impact early stage Indian start-ups. This translated into a set of proposed amendments that can be broadly classified into two categories. The first category involved placing additional obligations on the SMIs to ensure better protection of user interests while the second category involved the institution of an appellate mechanism for grievance redressal.

What are the additional obligations placed on the SMIs?

The notification of the final amendments carry forward all the amendments that it had proposed in June 2022.

First, the original IT Rules, 2021 obligated the SMIs to merely inform its users of the "rules and regulations, privacy policy and user agreement" that governed its platforms along with the categories of content that users are prohibited from hosting, displaying, sharing etc. on the platform. This obligation on the SMIs has now been extended to ensuring that its users are in compliance with the relevant rules of the platform. Further, SMIs are required to "make reasonable" efforts to prevent prohibited content being hosted on its platform by the users. To a large extent, this enhances the responsibility and concomitantly the power of SMIs to police and moderate content on their platforms. This has been met with skepticism by both the platforms and the users given the subjective nature of speech and the magnitude of the information hosted by these platforms. While the SMIs are unclear of the extent of measures they are now expected to undertake, users are apprehensive that the increased power of the SMIs would allow them to trample on freedom of speech and expression.

Second, a similar concern arises with the other newly introduced obligation on SMIs to "respect all the rights accorded to the citizens under the Constitution, including in the articles 14, 19 and 21". Given the importance of SMIs in public discourse and the implications of their actions on the fundamental rights of citizens, the horizontal application of fundamental rights is laudable. However, the wide interpretation to which this obligation is open to by different courts, could translate to disparate duties on the SMIs. Frequent alterations to design and practices of the platform, that may result from a case-to-case based application of this obligation, could result in heavy compliance costs for them.

Third, SMIs are now obligated to remove information or a communication link in relation to the six prohibited categories of content as and when a complaint arises. They have to remove such information within 72 hours of the complaint being made. Given the virality with which content spreads, this is an important step to contain the spread of the content.

Lastly, SMIs have been obligated to "take all reasonable measures to ensure accessibility of its services to users along with reasonable expectation of due diligence, privacy and transparency". While there are concerns that ensuring "accessibility" may obligate SMIs to provide services at a scale that they are not equipped to, the obligation is meant to strengthen inclusion in the SMI ecosystem such as allowing for participation by persons with disabilities and diverse linguistic backgrounds. In this context, the amendments also mandate that "rules and regulations, privacy policy and user agreement" of the platform should be made available in all languages listed in the eighth schedule of the Constitution.

What are the newly-introduced Grievance Appellate Committees?

The cornerstone of empowering users of social media platforms is to design a robust grievance redressal mechanism that can effectively and efficiently address their concerns. Prior to the IT Rules, 2021, platforms followed their own mechanisms and timelines for resolving user complaints. The IT Rules uniformed this by mandating that all social media platforms should have a grievance officer who would acknowledge the receipt of a complaint within 24 hours and dispose it within 15 days. However, the performance of the current grievance redressal mechanism has been sub-optimal. First, as evidenced by the transparency reports of SMIs, such as Facebook and Twitter, there is no common understanding of what is meant by resolution of the complaint. For example, Facebook records only mention the number of reports where "appropriate tools" have been provided. These "appropriate tools" could just mean the automated replies pointing out the tools available on the platform that have been sent to the complainants.

The cornerstone of empowering users of social media platforms is to design a robust grievance redressal mechanism that can effectively address their concerns

As opposed to this format, Twitter records outline the number of URLs against which action has been taken after the receipt of a complaint.

Furthermore, transparency reports show that the number of user complaints continue to be quite low when compared to the content against which the platform acts proactively or is obligated to remove due to governmental or court orders. This may be because users are either not aware of this facility or find it futile to approach the platform for complaint resolution. It might also be because, even in cases where action has been taken on the content, there is no way to assess whether the complainant has been satisfied with the resolution of the complaint.

Moreover, the extant framework does not provide for any recourse if the complainant is dissatisfied with the grievance officer's order. Possibly, the only course available to the complainant is to challenge the order under the writ jurisdiction of the High Courts or Supreme Court. This is not efficacious given that it can be a resource and time intensive process.

To remedy this, the government has instituted Grievance Appellate Committees (GAC). The committee is styled as a three-member council out of which one member will be a government officer (holding the post ex officio) while the other two members will be independent representatives. Users can file a complaint against the order of the grievance officer within 30 days. Importantly, the GAC is required to adopt an online dispute resolution mechanism which will make it more accessible to the users.

Interestingly, it is unclear whether this is a compulsory tier of appeal or not, that is will the user have to approach the grievance appellate committee before approaching the court. The confusion arises from the fact that the press note expressly stated that the institution of the GAC would not bar the user from approaching the court directly against the order of the grievance officer. However, the final amendments provide no such indication.

While this makes the in-house grievance redressal more accountable and appellate mechanism more accessible to users, appointments being made by the central government could lead to apprehensions of bias in content moderation.

Further, the IT Rules, 2021 do not provide any explicit power to the GAC to enforce its orders.

Lastly, if users can approach both the courts and the GAC parallelly, it could lead to conflicting decisions often undermining the impartiality and merit of one institution or the other.

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Social media can wield their 'algorithm power' to red-flag fake news: CEC

The Hindu Bureau
NEW DELHI

Understanding polls: The Chief Election Commissioner was addressing an international conference in New Delhi on Monday. PTI

Inclusive elections truthfully reflect the expression of the collective will of the people and are a hallmark of democracy, Chief Election Commissioner Rajiv Kumar said here on Monday even as he stressed the challenges of social media and their intersection with election management bodies (EMBs).

The EMBs, the CEC said, expected social media platforms to use their "algorithm power, to proactively red-flag fake news".

His comments came at a two-day international conference on the "Role, framework and capacity of election management bodies" organised by the Election Commission (EC) under the 'Cohort on Election Integrity' led by the Commission and established as a follow-on to the 'Summit for Democracy' held in December last year.

To preserve freedoms

Speaking on the pressing challenges before the EMBs today, Mr. Kumar stressed their intersection with social media platforms. "More early or deeper red-flagging of fake news based on known *modus operandi* and genres is not an unfair expectation from the EMBs," he said. Such a proactive approach to counter fake news would facilitate "credible electoral outcomes" that would help preserve "freedoms" which these platforms required to thrive.

He said that free, fair, inclusive, accessible and inducement-free elections, a cornerstone of democratic polity, were a precondition to peace and developmental dividends. These threshold concepts, he said, embody the understanding that sovereignty belongs to and flows from the people of a country.

India H1 fiscal deficit touches ₹6.2 lakh cr., tax receipts rise

April-September deficit touches 37.3% of full-year estimate as the Union government increases spending on fertiliser, food and fuel subsidies over the first six months of the current fiscal year

Reuters
NEW DELHI

India's fiscal deficit in the first half of the financial year rose to ₹6.2 lakh crore, from ₹5.27 lakh crore a year earlier, though rising tax collections helped offset a higher subsidy bill.

The fiscal deficit for the April to September period touched 37.3% of annual estimates, official data showed, as the Centre spent more on fertiliser, food and fuel subsidies.

Net tax collections rose to ₹10.12 lakh crore, about 10% higher than a year before, helping the government despite growing fears of a shortfall in receipts from the sale of stakes in state-run firms this year.

Tax take buoys: Net tax collections rose about 10%, helping the Centre despite growing fears of a shortfall in asset sales receipts. PTI

The Union government's spending bill is expected to rise by almost ₹2 lakh crore this fiscal, according to several economists' estimates, on higher allocations for subsidies, stretching the fiscal deficit.

However, a rise in goods and services tax receipts helped by a pick-up in urban demand and higher inflation could help to meet the budgeted fiscal deficit target, they said.

Total expenditure for the first six months was ₹18.24 lakh crore, compared with ₹16.26 lakh crore, data showed.

In February, while presenting the annual budget, Finance Minister Nirmala Sitharaman set the fiscal deficit target at 6.4% of gross domestic product for 2022/23, compared with 6.7% in the previous year.

The Centre aims to spend almost ₹40 lakh crore this fiscal, up about 4% from the previous year but down in real terms due to the near 7% inflation.

RBI's digital rupee pilot for wholesale starts today

The Hindu Bureau
MUMBAI

The first pilot for the digital rupee, wholesale segment (e₹-W) will commence on November 1, the Reserve Bank of India said.

"The use case for this pilot is settlement of secondary market transactions in government securities," the RBI said. "Use of e₹-W is expected to make the inter-bank market more efficient. Settlement in central bank money would reduce transaction costs by preempting the need for settlement guarantee infrastructure or for collateral to mitigate settlement risk.

"Going forward, other wholesale transactions, and cross-border payments will be the focus of future pilots," it added.

Scientists welcome clearance to GM mustard for farming

The Hindu Bureau
NEW DELHI

Scientists associated with the National Academy of Agricultural Sciences (NAAS) and the Trust for Advancement of Agricultural Sciences (TAAS) have welcomed the recent approval by the Ministry of Environment, Forests and Climate Change for the environmental release of genetically modified (GM) mustard hybrid for cultivation. Terming the decision a landmark, the scientists said it will break a logjam on the release of GM food crops.

"The GM technology for hybrid seed production developed by the University of Delhi will play an important role in reducing the edible oil import burden and in moving towards self-sufficiency in edible oil production. The decision to release GM mustard will encourage more research and innovations to reduce the environmental footprint of agriculture, develop climate resilient crops, and thereby assure food and nutritional security of the country," scientists Trilochan Mohapatra, R.S. Paroda and K.C. Bansal said at a press conference here on Monday.

Trials have shown that the variety has a yield advantage of 28% over the mega variety Varuna

They said India had a deficit production of edible oils by almost 55-60% of the total consumption. "In the financial year 2020-21, 13.35 million tonnes of edible oils were imported at a total cost of around ₹1,17,000 crore in foreign exchange." They said trials had shown that the variety had a yield advantage of 28% over the mega variety Varuna and 37% over the zonal checks.

Burden of tragedy

People were allowed to walk into the death trap in Morbi

At least 140 people were killed after a suspension bridge, a tourist attraction in Gujarat's Morbi town, collapsed, sending hundreds of revellers into the Machchhu river below. At least 47 of the dead were children, making it one of India's most horrendous tragedies. Inaugurated in 1879, the bridge was renovated and opened on October 26, four days before the tragedy. This raises several concerns. A company that seems to have had no apparent expertise or track record in the field was awarded the contract. There are questions about the fitness of the bridge; in any case, it was not intended to carry more than 150 people at a time, according to reports. Hundreds were on the bridge when it snapped as there was no crowd control. People were allowed to walk into a death trap. All these point to a major failure of governance at various levels. Gujarat is among the richer States of India, but it has often faced governance challenges – its poor management of the pandemic is a case in point. Human acts of omission and commission often cause tragedies, and significantly change the impact of natural disasters. The police have arrested nine people, including two officials of the company that is now under a cloud, and the government has announced compensation to the kin of the victims. A thorough inquiry and the fixing of accountability must follow quickly. The findings should be made public as soon as possible, and the guilty must face exemplary punishment.

Coming out of the long restrictions on travel necessitated by the COVID-19 pandemic, people all over the world appear to be binging on travel and outings. A stampede in Seoul in South Korea killed 154 people last week. In India also, record numbers of people are thronging tourism and pilgrimage spots. While tourism and travel are powerful engines of the economy, there must be more attention paid to ensure that they are safe and sustainable. Tourist and pilgrimage centres around the country should carry out safety and environmental audits to ensure that crowd management and safety protocols are in place to avoid tragedies such as this. Development of new centres where large numbers of people are expected should account for such contingencies. The rapid pace of road and infrastructure development in ecologically sensitive areas such as the Himalayas should be in accordance with topographic limitations. More must be done to regulate the flow of travellers according to the infrastructure capacity of particular destinations. Tourism promotion campaigns must include creating safety awareness among visitors and local officials.

General Studies Paper I	
A	History of Indian culture will cover the salient aspects of art forms, literature and architecture fror ancient to modern times;
B	Modern Indian history from about the middle of the eighteenth century until the present-significar events, personalities, issues;
C	Freedom struggle-its various stages and important contributors / contributions from different parts c the country;
D	Post-independence consolidation and reorganization within the country;
E	History of the world will include events from 18th century such as industrial revolution, world wars re-drawal of national boundaries, colonization, decolonization,
F	Political philosophies like communism, capitalism, socialism etc.-their forms and effect on th society
G	Salient features of Indian Society, Diversity of India;
H	Effects of globalization on Indian society;
I	Role of women and women's organization;
J	Social empowerment, communalism, regionalism & secularism
K	Salient features of world's physical geography;
L	Geographical features and their location- changes in critical geographical features (including wate bodies and ice-caps) and in flora and fauna and the effects of such changes;
M	Important Geophysical phenomena such as earthquakes, Tsunami, Volcanic activity, cyclone etc.
N	Distribution of key natural resources across the world (including South Asia and the India subcontinent);
O	Factors responsible for the location of primary, secondary, and tertiary sector industries in variou parts of the world (including India);
P	Population and associated issues;
Q	Urbanization, their problems and their remedies
General Studies Paper II	
A	India and its neighbourhood- relations;
B	Important International institutions, agencies and fora- their structure, mandate;
C	Effect of policies and politics of developed and developing countries on India's interests;
D	Bilateral, regional and global groupings and agreements involving India and/or affecting India' interests.
E	Indian Constitution, historical underpinnings, evolution, features, amendments, significant provision and basic structure;
F	Comparison of the Indian Constitutional scheme with other countries;
G	Functions and responsibilities of the Union and the States, issues and challenges pertaining to th federal structure, devolution of powers and finances up to local levels and challenges thereir Inclusive growth and issues arising from it;
H	Parliament and State Legislatures - structure, functioning, conduct of business, powers & privilege and issues arising out of these;

K	Appointment to various Constitutional posts, powers, functions and responsibilities of various Constitutional bodies;
L	Statutory, regulatory and various quasi-judicial bodies;
M	Mechanisms, laws, institutions and bodies constituted for the protection and betterment of these vulnerable sections;
N	Salient features of the Representation of People's Act;
O	Important aspects of governance, transparency and accountability, e-governance- applications, models, successes, limitations, and potential;
P	Citizens charters, transparency & accountability and institutional and other measures;
Q	Issues relating to poverty and hunger,
R	Welfare schemes for vulnerable sections of the population by the Centre and States, Performance of these schemes;
S	Issues relating to development and management of social sector / services relating to education and human resources;
T	Issues relating to development and management of social sector / services relating to health
General Studies Paper III	
A	Indian Economy and issues relating to planning, mobilization of resources, growth, development and employment;
B	Effects of liberalization on the economy, changes in industrial policy and their effects on industrial growth;
C	Inclusive growth and issues arising from it;
D	Infrastructure Energy, Ports, Roads, Airports, Railways etc. Government budgeting;
E	Land reforms in India
F	Major crops, cropping patterns in various parts of the country, different types of irrigation and irrigation systems;
G	Storage, transport and marketing of agricultural produce and issues and related constraints;
H	e-technology in the aid of farmers; Technology Missions; Economics of Animal-Rearing.
I	Issues of buffer stocks and food security, Public Distribution System- objectives, functioning, limitations, revamping;
J	Food processing and related industries in India – scope and significance, location, upstream and downstream requirements, supply chain management;
K	Issues related to direct and indirect farm subsidies and minimum support prices
L	Awareness in the fields of IT, Space, Computers, robotics, nano-technology, bio-technology;
M	Indigenization of technology and developing new technology;
N	Developments and their applications and effects in everyday life;
O	Issues relating to intellectual property rights
P	Conservation, environmental pollution and degradation, environmental impact assessment
Q	Disaster and disaster management
R	Challenges to internal security through communication networks, role of media and social networking sites in internal security challenges, basics of cyber security;
S	Money-laundering and its prevention;
T	Various forces and their mandate;
U	Security challenges and their management in border areas;

V	Linkages of organized crime with terrorism;
W	Role of external state and non-state actors in creating challenges to internal security;
X	Linkages between development and spread of extremism.
General Studies Paper IV	
A	Ethics and Human Interface: Essence, determinants and consequences of Ethics in human actions;
B	Dimensions of ethics;
C	Ethics in private and public relationships. Human Values - lessons from the lives and teachings of great leaders, reformers and administrators;
D	Role of family, society and educational institutions in inculcating values.
E	Attitude: Content, structure, function; its influence and relation with thought and behaviour;
F	Moral and political attitudes;
G	Social influence and persuasion.
H	Aptitude and foundational values for Civil Service , integrity, impartiality and non-partisanship, objectivity, dedication to public service, empathy, tolerance and compassion towards the weaker sections.
I	Emotional intelligence-concepts, and their utilities and application in administration and governance.
J	Contributions of moral thinkers and philosophers from India and world.
K	Public/Civil service values and Ethics in Public administration: Status and problems;
L	Ethical concerns and dilemmas in government and private institutions;
M	Laws, rules, regulations and conscience as
N	sources of ethical guidance;
O	Accountability and ethical governance; strengthening of ethical and moral values in governance; ethical issues in international relations and funding;
P	Corporate governance.
Q	Probity in Governance: Concept of public service;
R	Philosophical basis of governance and probity;
S	Information sharing and transparency in government, Right to Information, Codes of Ethics, Codes of Conduct, Citizen’s Charters, Work culture, Quality of service delivery, Utilization of public funds, challenges of corruption.
T	Case Studies on above issues.