

# 15 Nov 2019: UPSC Exam Comprehensive News Analysis

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## B. GS 2 Related

### Category: POLITY AND GOVERNANCE

#### 1. SC dismisses pleas to review Rafale ruling

##### Context:

The Supreme Court has dismissed a review petition seeking a court-monitored criminal probe in Rafale

fighter jet deal between the Indian government and France's Dassault Aviation.

### Background:

- The Rafale deal pertains to a government-to-government agreement signed between India and France to purchase 36 Rafale fighter jets from the French aerospace giant Dassault. The deal was signed by PM Narendra Modi during his first term in office.
- The petitioners had alleged irregularities in the purchase of 36 Rafale fighter jets from France's Dassault Aviation.
- The deal became controversial over allegations that the government had bypassed established norms of acquisition to sign the deal and that industrialist Anil Ambani received undue favours under the deal.
- In December 2018, the Supreme Court said it had not seen any evidence that could raise doubts over the government's decision-making process and so, it ruled to dismiss the pleas seeking a court-monitored probe into the deal.

### Details:

- The three-judge bench was presided over by Chief Justice Ranjan Gogoi and comprised Justices S.K. Kaul and K.M. Joseph.
- The bench stated there was no merit in the review petition and that no probe was required in the purchase deal.
- In a unanimous verdict, the bench concluded that it was not appropriate to order a roving inquiry into the allegations.
- The petition was dismissed on the grounds that it is not within the purview of judicial review.

To know more about Rafale aircraft, the need for Rafale for India, [Click here](#).

## Category: HEALTH

### 1. India is home to 77 million diabetics

#### Issue:

The International Diabetes Foundation (IDF) Diabetes Atlas highlights the fact that one in six people with diabetes in the world is from India. The numbers place India among the top 10 countries for people with the disease, coming in at number two with an estimated 77 million diabetics.

#### Concerns:

- The ninth edition of the IDF Diabetes Atlas offers projections that continue to put India at the second slot right up to 2045.
- The numbers are staggering — just over 134 million Indians will be diabetics in the next 25 years.
- India is at the top among a clutch of countries in Southeast Asia — Bangladesh, Sri Lanka, Nepal and Mauritius.

#### Way forward:

- The IDF has stressed the urgency to develop and implement multi-sectoral strategies to combat the growing epidemic.
- It has made it clear that India needs to pause and re-evaluate its strategy to combat diabetes.
- Diabetes, being a lifestyle disorder with multidimensional causative factors, definitely needs a

multidimensional approach.

- The way ahead, all experts concurred, was a focus on prevention. It is believed that India needs a more effective national diabetes prevention programme which will require cooperation from several quarters, including medical education, health awareness in schools, and urban planning.
- Since India also has a huge burden of pre-diabetics, if efforts are made towards dissemination of information on the right lifestyle options to help keep blood sugar, lipids and blood pressure under control, at least a third could be prevented from developing diabetes.

#### **IDF Diabetes Atlas:**

- The IDF Diabetes Atlas is the authoritative resource on the global burden of diabetes.
- First published in 2000, it is produced by IDF biennially in collaboration with experts from around the world and contains data on diabetes cases, prevalence, mortality and expenditure on the global, regional and national level.

To know more about diabetes and its types in detail, [click here](#).

### **Category: INTERNATIONAL RELATIONS**

#### **1. Tariffs removal a 'condition' for U.S. trade deal, says China**

##### **Context:**

China has said that eliminating tariffs was a condition for reaching a trade agreement with the United States, a demand U.S. President said, he had rejected.

##### **Background:**

- Beijing and Washington have been embroiled in a trade war that has weighed on the global economy, and two sides have slapped punitive tariffs on hundreds of billions of dollars in two-way trade.
- Amid signs of easing tensions, the Chinese Commerce Ministry had said that the two sides had agreed on a plan to roll back tariffs in stages. Mr. Trump has denied that any such plan had been made.

##### **Issues:**

- Trump has now warned that he could even increase tariffs further if a partial deal with Beijing failed to materialise.
- Economic data show the uncertainty created by the dispute between the world's two biggest economies is undermining global growth.
- The International Monetary Fund has cut its global growth forecast and warned that implementing all the announced tariffs would cut \$700 billion out of the world economy in 2020.

## **C. GS3 Related**

### **Category: ECONOMY**

#### **1. Telecom majors feel sting of top court's verdict on AGR**

##### **Context:**



Vodafone Idea, India's second-largest telco by number of subscribers, reported a record net loss of Rs. 50,922 crore, the largest in Indian corporate history, due to a one-time provision of Rs. 30,774.5 crore made post the Supreme Court's ruling in favour of the Department of Telecom's interpretation of adjusted gross revenues (AGR).

This issue has been covered in [25<sup>th</sup> October Comprehensive News analysis](#) and [3<sup>rd</sup> November Comprehensive News Analysis](#).

## D. GS4 Related

*Nothing here for today!!!*

## E. Editorials

**Category: POLITY AND GOVERNANCE**

### 1. Sabarimala case: Larger Supreme Court bench to decide role of courts in religion

#### Context

- The Supreme Court, while looking into the petition with reference to Sabarimala Verdict, has concluded that its 2018 judgment lifting age restrictions on the entry of women into the Sabarimala hill shrine may **impinge on the affairs of other religions too and will require a more detailed examination.**
- The Supreme Court in a 3-2 decision has now decided that petitions seeking review of the verdict will be kept pending till a **larger bench of seven judges takes a call on the matter.**

#### View of the Judges

- In turning to a **larger Bench, three of the five judges on the Constitution Bench** — Chief Justice of India Ranjan Gogoi, Justices A M Khanwilkar and Indu Malhotra —
  - sought clarity on issues ranging from the essential religious practice test, including the “apparent conflict” between rulings in the Shirur Mutt case and Durgah Committee, Ajmer; entry into a mosque/durgah by Muslim women and into an agyari by Parsi women married to non-Parsis;
  - the interplay between freedom of religion under Articles 25 and 26 of the Constitution and
  - other provisions in Part III, particularly Article 14; and, the definition of constitutional morality.
- While **Justices Rohinton F Nariman and D Y Chandrachud gave a dissenting view**, Justice Khanwilkar, who had gone with the majority 4-1 verdict in 2018 that lifted age restrictions on entry into Sabarimala, went with the majority decision to seek clarity from a larger bench this time.
  - The dissenting judges said that when the process of adjudicating a case is complete and a decision is pronounced, the decision of the Supreme Court binds everyone. “Compliance is not a matter of option”.
- In the 2018 order, Justice Malhotra was the lone judge with a dissenting voice.
  - Justice Malhotra had held that to entertain a public interest litigation at the behest of persons who are not worshippers at Sabarimala temple would open the floodgates of petitions to be filed questioning the validity of religious beliefs and practices followed by other religious sects.

### What issues will be considered by the larger bench?

- The CJI has the **administrative power to club similar cases together**.
- It is, however, rare for the court to pass a judicial order clubbing cases that are not listed with one it is hearing.
  - The case concerning the entry of Muslim women into mosques is listed before a two-judge Bench headed by Justice S A Bobde,
  - while the cases relating to female genital mutilation (*Sunita Tiwari v Union of India & Ors*) and Parsi women's rights have already been referred to Constitution Benches that are yet to be set up.
- Additionally, the court framed seven issues that could be considered by the larger Bench.
- They range from balancing the freedom of religion under Articles 25 and 26 of the Constitution with other fundamental rights, particularly the right to equality, to recalibrating judicial decisions on constitutional morality and essential religious practices.

### What did the court say about recalibrating such decisions?

- **Constitutional Morality:** The court said 'morality' or 'constitutional morality' has not been defined in the Constitution. "Is it overarching morality in reference to preamble or limited to religious beliefs or faith? There is need to delineate the contours of that expression, lest it becomes subjective."
- **Essential Religious Practices:** "The extent to which the court can enquire into the issue of a particular practice as an integral part of the religion or religious practice of a particular religious denomination or should that be left exclusively to be determined by the head of the section of the religious group," is an aspect the court wants a larger Bench to settle.
  - According to the essential religious practices doctrine evolved by the court in the 1950s, practices and beliefs considered integral by a religious community are to be regarded as "essential", and protected under Article 25.
  - **In the 2018 Sabarimala judgment**, the majority opinion held that barring certain women from entering the temple owing to the celibate nature of Lord Ayyappa was not an essential religious practice.
- Another important question is whether the courts can allow public interest litigation "in matters calling into question religious practices of a denomination or a section thereof at the instance of **persons who do not belong to such religious denomination?**"
  - Justice Malhotra, in her dissent in the 2018 verdict, had questioned the standing of an NGO that filed the PIL

### Issues with this Judgment

- It is shocking that the Bench includes the abhorrent practice of female genital mutilation in the right to practice of religion.
- It is well-established that freedom of religion, under Article 25, is subject to public order, morality and health, and it may not be difficult for any court to test the validity of the practice against the restriction on grounds of a woman's health, and this may not require an exalted panel of seven judges.
- In keeping the petitions on Sabarimala pending further, the court has displayed a **disquieting inability to stand by its previous transformative judgment**.
- Further, it may lead to a repeat of the unsavoury incidents when religious groups and political activists blocked and attacked women devotees.

### What is the takeaway from the verdict?

- The court has allowed the 2018 Sabarimala verdict to continue until the larger Bench is set up and decides the case conclusively.



- Based on what that Bench decides, the review can be dismissed or the 2018 order can be modified.

[su\_box title="Constitutional Morality" box\_color="#7960a0" title\_color="#ffffff"]

- The word ‘morality’ has been used only four times in the Indian Constitution (twice in Article 19 and twice in Right to Religious Freedom under Article 25 and 26)
- **Constitutional morality** means adherence to the core principles of constitutional democracy.
  - In Dr. Ambedkar’s perspective, constitutional morality would mean an **effective coordination between conflicting interests of different people** and the administrative cooperation to resolve them amicably without any confrontation amongst the various groups working for the realization of their ends at any cost.
- Thus the scope of the definition of Constitutional Morality is not limited only to following the constitutional provisions literally but vast enough to ensure the ultimate aim of the Constitution, a socio-juridical scenario providing an opportunity to unfold the full personhood of every citizen, for whom and by whom the Constitution exists.
- The values that are identified as fundamental by the Judiciary in administering justice are considered as **Judicial Values**.

### What are the sources of constitutional morality?

- Text of the Constitution;
- Constitutional Assembly debates;
- Events that took place during the framing of the Constitution; and
- Case Law History.

### Some key takeaways

- Constitutional morality provides a **principled understanding for unfolding the work of governance**.
  - It is a compass to hold in troubled waters. It specifies norms for institutions to survive and an expectation of behaviour that will meet not just the text but also the soul of the Constitution.
- Constitutional morality balances popular morality and acts as a threshold against an upsurge in mob rule.
- The concept of constitutional morality would **serve as an aid for the Court to arrive at a just decision which would be in consonance with the constitutional rights of the citizens**, howsoever small that fragment of the populace may be.
- The principle of constitutional morality basically means to bow down to the norms of the Constitution and not to act in a manner that would become violative of the rule of law or reflectible of action in an arbitrary manner.

### Invoking the concept of constitutional morality

- An important case which employed this concept in an innovative manner was the **Naz Foundation case** which used the concept of constitutional morality to strike down Section 377 of the Indian Penal Code and decriminalise homosexuality.
- The Supreme Court used this principle in the **Triple Talaq Case** where it declared the practice as void and illegal.
  - It said "Triple talaq -- the personal law by which Muslim men can instantaneously divorce their wives by uttering talaq thrice -- "is not integral to religious practice and violates constitutional morality".
- Making constitutional morality as the basis of its judgment, the Supreme Court decriminalises **adultery, holding that Section 497 of the IPC** is “backward looking and retrograde”.
- In the **2018 Sabarimala verdict**, the majority opinion authored by then CJI Dipak Misra defined

‘morality’ in Article 25 to mean constitutional morality.[/su\_box]

[su\_box title="**Essential Religious Practice**" box\_color="#7960a0" title\_color="#ffffff"]

- Our Constitution combines the freedom of religion with a **mandate to the state to intervene in religious affairs if social welfare so demands**.
- The state **does have the power to regulate secular activities** associated with religious practice. The question is, how to decide whether an activity is religious or secular? This is important — because if it is religious, it cannot be regulated by the state.
- The doctrine of “essentiality” was invented by a seven-judge Bench of the Supreme Court in the ‘**Shirur Mutt**’ case in 1954.
  - The court held that “religion” in Article 25 covers all rituals and practices that are “integral” to a religion. It thus took upon itself the responsibility to determine what is integral or essential, and impliedly rejected the ‘**assertion test**’ of the **United States** under which a plaintiff could just assert that a particular practice was a religious practice, and courts would not probe any further.

This test of arriving at the definition of religion was called the essential practices test.

### Examples

1. The essentiality test was crystallized in the **temple entry case (1958)**.
  - The court dealt with the question of whether untouchability, manifested in restrictions on temple entry, was an essential part of the Hindu religion.
  - The court after examining select Hindu texts came to the conclusion that untouchability was not an essential Hindu practice.
2. Ismail Faruqui (1994)
  - The Supreme Court dealt with the issue of the state acquiring the land over which the Babri Masjid had stood.
  - Instead of settling the question in favour of the Centre on the principle of eminent domain, the court went into the question of whether praying in a mosque is an essential practice in Islam — and ruled that while praying is an essential practice, the offering of such prayers in a mosque is not, unless the place has a particular religious significance in itself.
3. Tandava Dance Case
  - The apex court relied on the doctrine of precedent to hold that tandava dance was not an essential practice of the Ananda Marga faith.
  - It also said that the faith had come into existence in 1955, while the tandava was adopted only in 1966 — therefore, as the faith had existed without the practice, the practice could not be accepted as an essential feature of the faith.
  - This was a strange argument that suggested that, to be essential, religious practices must remain frozen in time, with no evolution.

### Concerns

- Under the test, the court **privileges certain religious practices over others, when it does not have the expertise to decide** which practice/ritual of a religion is essential/non-essential. These are purely theological questions.
- The cases suggest that the judiciary has styled itself as a reformer of religions with its own idea of

rationality and morality. The Supreme Court's insistence on applying the essential practices test **strikes at the very foundation of religious freedom in India.**

- The concept of providing constitutional protection only to those elements of religion, which courts consider "essential" is problematic. Such an approach assumes that one element or practice of religion is independent of the others; also that while some practices are central to a religion, others are merely incidental.

As a result, over the years, courts have been inconsistent on this question —

- in some cases, they have relied on religious texts to determine essentiality,
- in others on the empirical behaviour of followers, and
- in yet others, based on whether the practice existed at the time the religion originated.

### **How does essentiality square up against religious freedom?**

- Freedom of religion was meant to guarantee freedom to practice one's beliefs based on the concept of "**inward association**" of man with God.
- The apex court in '**Ratilal Panachand Gandhi vs The State of Bombay and Ors**' (1954) acknowledged that "every person has a fundamental right to entertain such religious beliefs as may be approved by his judgment or conscience".
- The framers of the Constitution wanted to give this autonomy to each individual.
- Thus, it is an individual right, not a group right.

The essential practices test is **antithetical to the individualistic conception of rights.**[/su\_box]

## **2. Peace bought by an unequal compromise: Ayodhya Verdict**

Please read more about this topic at the following link:

[Ayodhya Verdict - UPSC Notes](#)

## **Category: INTERNATIONAL RELATIONS**

### **1. The minority factor in Sri Lankan election**

The 2019 Sri Lankan presidential election is scheduled to be held on 16 November 2019.

An analysis of this topic will be discussed after the election results are declared.

## **F. Tidbits**

### **1. Govt. to set up northeast industrial corridor**

#### **What's in News?**

Defence Minister, in his address at the 11th Maitree Diwas Celebrations at Tawang, said that the Centre plans to set up a northeast industrial corridor, with the Arunachal corridor acting as a bridge between India and Southeast Asia.

#### **Significance:**

- The corridor will be set up, in a bid to provide employment opportunities and promote trade and



tourism in the region.

- Inadequate infrastructure and poor connectivity in India's north-east are major constraints to development in the region. A host of infrastructure corridor projects are likely to improve the economic and strategic importance of the North-East.
- It is also expected to give a fillip to trade and tourism.

Read about Maitree Diwas, [click here](#).

## 2. India and China to hold border talks

- India and China have agreed to hold another meeting on matters relating to the boundary question after Prime Minister Narendra Modi met Chinese President Xi Jinping on the sidelines of the BRICS Summit in Brasilia.
- The 21st round of the border talks led by the Special Representatives — India's National Security Advisor and Chinese State Councillor and Foreign Minister, was held at Chengdu in China in November 2018.
- Mr. Modi and Mr. Xi noted that the Special Representatives will have another meeting on matters relating to the boundary question and reiterated the importance of maintaining peace and security along the border areas.

To read more about the [11<sup>th</sup> BRICS Summit](#), click here.

## 3. India's requests for Facebook user data rising sharply

- According to the Transparency Report of the US-based social networking site, the Indian government's requests for user data from Facebook increased nearly 37% in the first half of 2019, and was the second-highest globally only after the United States of America.
- Facebook responds to government requests for data in accordance with applicable law and terms of service.
- Facebook also restricted access to 1,228 pieces of content in response to legal requests from law enforcement agencies and the India Computer Emergency Response Team within the Ministry of Electronics and Information Technology. The majority of content restricted was alleged to violate local laws relating to defamation of religion and hate speech.

## G. Prelims Facts

### 1. 'Tiger Triumph' gets off to a grand start

#### What's in News?

The maiden edition of the Tri-Services India-U.S. Humanitarian Assistance and Disaster Relief (HADR) Amphibious Exercise named 'Tiger Triumph' got off to a grand start in Visakhapatnam.

**Tiger Triumph has been covered in detail in 12<sup>th</sup> November PIB Summary and Analysis.** [Click here](#) to read.

## H. Practice Questions for UPSC Prelims Exam

Q1. Consider the following statements:

1. The first BRICS summit was held in Russia.
2. India has hosted two consecutive BRICS Summits.

3. Since 2009, the BRICS nations have met annually at formal summits.

Which of the given statement/s is/are incorrect?

- a. 1 and 2 only
- b. 2 only
- c. 1 and 3 only
- d. 3 only

**Answer: b**

**Explanation:**

- The annual BRICS summits have been held since 2009.
- Member countries take turns to host the summit.
- The first summit was held in Yekaterinburg in Russia in 2009.
- India has hosted the 4th and the 8th summits at New Delhi and Baulim (Goa) respectively.

**Q2. 'Tiger Triumph', recently in news is:**

- a. An edition of the Tri-Services India-U.S. Humanitarian Assistance and Disaster Relief Amphibious Exercise.
- b. A software-based monitoring system launched across Indian tiger reserves by the Indian government's National Tiger Conservation Authority (NTCA).
- c. A tiger conservation programme aimed at ensuring a viable population of Bengal tigers in their natural habitats, protecting them from extinction, and preserving areas of biological importance.
- d. None of the above

**Answer: a**

**Explanation:**

TIGER TRIUMPH is the first joint Indo-US Humanitarian Assistance and Disaster Relief (HADR) exercise. It is aimed at developing interoperability for conducting HADR operations.

- Participating teams from India:
  - Indian Naval ships Jalashwa, Airavat and Sandhayak
  - Indian Army troops from 19 Madras and 7 Guards
  - Indian Air Force MI-17 helicopters and Rapid Action Medical Team (RAMT)
- Participating teams from the USA:
  - US Navy Ship Germantown
  - Troops from US Third Marine Division
- It is an exercise carried out on the Eastern coast of India starting with the Harbour Phase at Visakhapatnam.

**Q3. Consider the following statements with respect to Atal Innovation Mission (AIM):**

- 1. The Atal Innovation Mission (AIM) is a flagship initiative of the Ministry of Science and Technology to promote innovation and entrepreneurship across the country.
- 2. One of the core functions of the AIM is the promotion of Entrepreneurship through Self-

## Employment and Talent Utilization.

Which of the given statement/s is/are correct?

- 1 only
- 2 only
- Both 1 and 2
- Neither 1 nor 2

**Answer: b**

### **Explanation:**

The Atal Innovation Mission (AIM) is a flagship initiative set up by the NITI Aayog to promote innovation and entrepreneurship across the length and breadth of the country. AIM's objectives are to create and promote an ecosystem of innovation and entrepreneurship across the country at school, university, research institutions, MSME and industry levels.

The Atal Innovation Mission has the following two core functions:

1. Entrepreneurship promotion through Self-Employment and Talent Utilization, wherein innovators would be supported and mentored to become successful entrepreneurs.
2. Innovation promotion: to provide a platform where innovative ideas are generated.

### **Q4. Consider the following statements:**

1. Kanakadasa was a medieval Vaishnava poet from Karnataka.
2. He was a follower of the Dwaita philosophy propounded by Madhavacharya.
3. Kanakadasa and Purandaradasa were contemporaries.

Which of the given statement/s is/are incorrect?

- 2 only
- 3 only
- 2 and 3 only
- None of the above

**Answer: d**

### **Explanation:**

Kanakadasa was a Vaishnava poet, philosopher, musician and composer from modern Karnataka. He is known for his Keertanas and Ugabhoga, compositions in the Kannada language for Carnatic music. He was a follower of the Dwaita philosophy propounded by Madhavacharya. Kanakadasa and Purandaradasa were contemporaries.

## I. UPSC Mains Practice Questions

1. There is a growing need to exercise caution while relying on the doctrine of constitutional morality. Illustrate with examples. (15 Marks, 250 Words).
2. Discuss the challenges facing the Indian Telecom Sector and suggest measures to overcome them.



