03 Jan 2023: UPSC Exam Comprehensive News Analysis

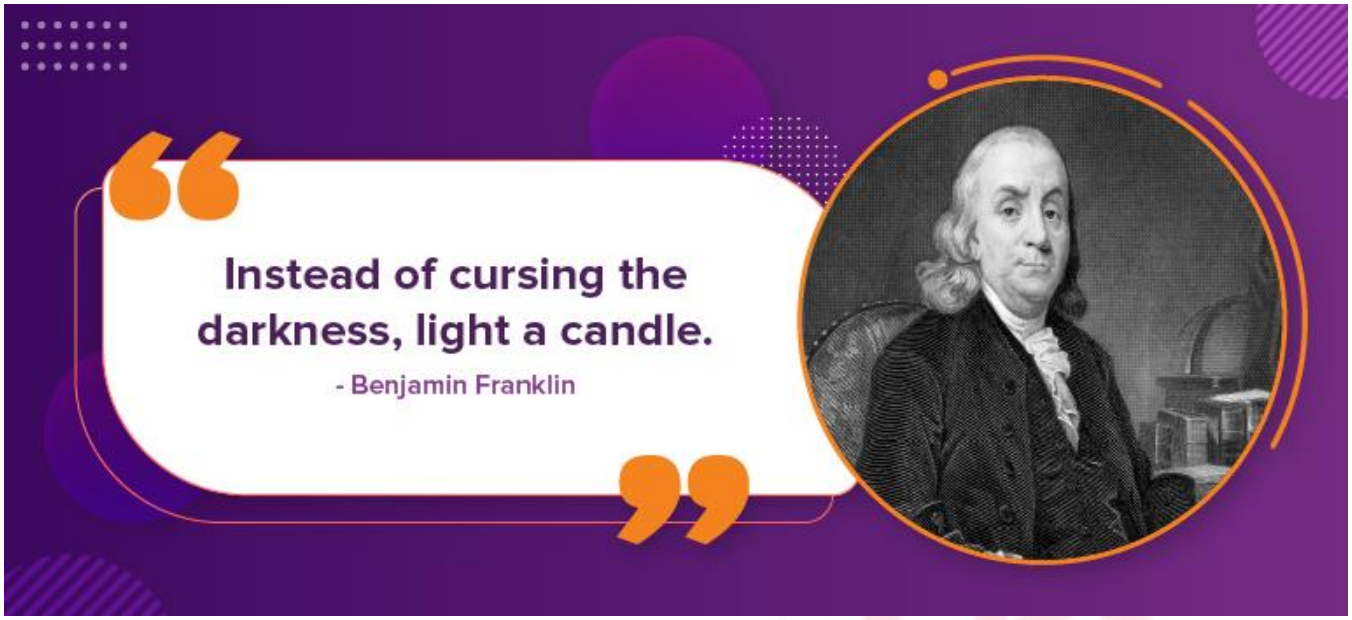

TABLE OF CONTENTS

A. GS 1 Related

Nothing here for today!!!

B. GS 2 Related

Category: POLITY

1. What is the new delimitation exercise by Assam?

Syllabus: Powers, functions and responsibilities of various Bodies

Prelims: About Delimitation Commission and exercise

Mains: Issues over Delimitation in the Northeast Region

Context

The Election Commission of India (ECI) notified the start of the delimitation exercise of Assembly and Parliamentary constituencies in Assam.

Delimitation Exercise

- Delimitation is the process of redrawing the boundaries of Lok Sabha and State Assembly constituencies based on a recent census.
- The delimitation exercise is undertaken to ensure each seat has an almost equal number of voters and is usually carried out every few years after a Census.
- The delimitation exercise is undertaken by an independent Delimitation Commission formed under the provisions of the Delimitation Commission Act.

Know more about - Delimitation Commission and exercise

For more information about the issue, refer to the following article:

UPSC Exam Comprehensive News Analysis dated 02 Jan 2023

C. GS 3 Related

Category: ECONOMY

1. SC majority ruling finds no flaw in 2016 demonetisation process

Syllabus: Indian Economy and issues relating to planning, mobilization of resources, growth and development

Prelims: About Demonetisation in India

Mains: Critical evaluation of the demonetisation of ₹1,000 and ₹500 banknotes

Context

A five-judge Constitution Bench of the Supreme Court upheld the government's process to demonetise ₹500 and ₹1000 banknotes through a gazette notification issued on the 8th of November 2016.

Demonetisation of ₹500 and ₹1000 banknotes

- The demonetisation process refers to the decision of the Central Banks or the Governments to recall the status of a currency note which is being used as legal tender.
- On 8 November 2016, the Prime Minister of India announced the government's plan to demonetise ₹1,000 and ₹500 denomination notes in the country.
- Demonetisation was announced by the government in order to eradicate black money, combat money laundering and terror funding, address the problems of tax evasion in India and curb the thriving underground economy in India among others.

Read more about - Demonetisation of ₹500 and ₹1000 banknotes

Supreme Court's judgement on the demonetisation process

- A Constitutional Bench of the Supreme Court in a 4:1 majority verdict has upheld the government's demonetisation process and has held that the decision-making process was not flawed.
- The Supreme Court's judgement came on a batch of 58 petitions that challenged the demonetisation exercise of 2016.
- The majority verdict rejected the two main contentions of the petitioners that:
    - The expression "any" in Section 26(2) of the Reserve Bank of India Act of 1934 (RBI Act), cannot be interpreted to mean "all" to empower the government to demonetise currency notes of all series of any denomination.
    - The proposal for demonetisation should be initiated by the RBI Central Board and not the Union government.

- The petitioners had also argued that the decision-making process employed while announcing demonetisation was “rushed” and “fatally flawed”.

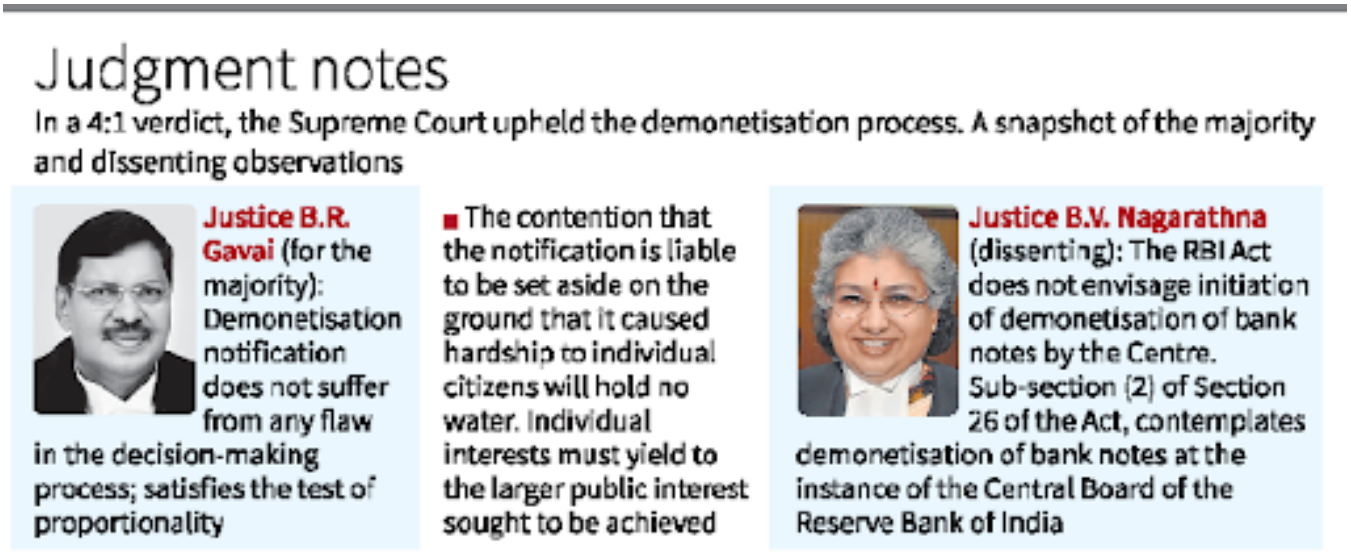

Image Source: The Hindu

Majority opinion

- The majority verdict included that of Justices S. Abdul Nazeer, AS Bopanna, V. Ramasubramanian, and B.R. Gavai.
- They observed that the statutory procedure under Section 26(2) of the RBI Act was not violated merely because the Union government had taken the initiative to advise the Central Board of the RBI to consider recommending demonetisation.
- They also acknowledged that the government was empowered under the provision to demonetise “all series” of banknotes.
- Additionally, the majority opinion said that the Union government is the best judge with regard to fake currency, black money, terror financing and drug trafficking as it has all the necessary inputs and hence the measures required to address such issues must be left to the discretion of the government in consultation with the RBI.
- According to Justice Gavai, the process was not “rushed” as the RBI and the government had been in consultation with each other for about six months before the announcement of the demonetisation exercise.
- The judge also dismissed the arguments that it was a hasty decision by saying that such measures must be taken with the highest level of confidentiality and speed, because if such measures are leaked then the consequences would be disastrous.
- The majority opinion also found a “reasonable nexus” between the demonetisation exercise and its objectives such as combating fake currency, black money and terror financing.

- Further, the majority rejected the arguments that the "demonetisation violated the right to property of the citizens", as there are reasonable restrictions to the right.

Minority opinion

- Justice B.V. Nagarathna disagreed with the majority by saying the government's notification issued under Section 26(2) of the RBI Act was unlawful.
- Justice Nagarathna said that the government could have issued a notification under Section 26(2) only if the Central Board of the RBI had initiated the proposal of demonetisation.
    - But in 2016, the government initiated demonetisation instead of the Central Board of RBI.
- According to Justice Nagarathna, when the government initiates demonetisation, it should take the opinion of the Central Board and the opinion offered by the Board must be "independent and frank".
    - However, even if the Board's opinion is negative, the government can still go ahead with the exercise, but only through the means of **promulgating an ordinance or by passing a parliamentary law/legislation**.
- Justice Nagarathna further held that there was no "meaningful application of mind" by the Central Board of RBI to the government's measure of demonetisation of ₹500 and ₹1000 banknotes, which accounted for over 86% of the currency in circulation at the time thereby causing a significant financial crunch and socio-economic distress.
- The judge also noted that the Central Board of RBI was given only about 24 hours of time to consider the proposal of the government with regard to demonetisation.
- Justice Nagarathna concluded by adding that the objectives of demonetisation were "noble and well-intentioned", but the process adopted was bad in law and nothing can be done to restore the situation to status quo ante (the situation that existed before), but a judgement could act prospectively.

***Nut graf**: The Supreme Court in a 4:1 majority verdict upheld the government's 2016 decision to demonetise the ₹1,000 and ₹500 currency notes with the majority verdict saying that the 2016 notification satisfied the test of proportionality and cannot be struck down as unconstitutional based on the ground of excessive delegation.*

D. GS 4 Related

Nothing here for today!!!

E. Editorials

Category: INDIAN CONSTITUTION AND POLITY

1. The case against state control of Hindu temples

Syllabus: Significant provisions of Indian Constitution - Secularism.

Mains: State Control of Hindu Temples and associated concerns.

Prelims: Secularism, Article 25.

Details:

- The Constitution makers, aware of the temple entry movement, purposely provided a separate power under Article 25(2)(b).
    - Article 25(2)(b) authorizes the state to enact laws "providing for social welfare and reform or the throwing open of Hindu religious institutions" to "all classes and sections of Hindus".
- Thus, the issue of regulating secular aspects of religious practice is different from granting access to worship. This is the reason that there are distinct laws for temple control and temple entry. The laws co-exist and are independent of each other.

Also read: Right to Freedom of Religion [Articles 25 - 28]

Background details:

- ***Shirur Mutt Judgment (1954)***
    - In the judgment of the Supreme Court (seven judges bench), Justice B.K. Mukherjea substantially obliterated the Madras Hindu Religious and Charitable Endowments (HR&CE) Act, 1951, labelling the impugned provisions as "extremely drastic" in character.
    - The Advocate General of Madras also questioned the legality of the provisions of the act.
    - As a consequence of the Shirur Mutt judgment, the legislature of the erstwhile Madras State enacted in 1954 an amendment Act which removed the defects pointed out by SC.
- ***Sudhindra Thirtha Swamiar v. Commissioner Case***
    - The amended act was again challenged in 1955 before the Madras High Court. It was also struck down as it suffered from the same defects as the original enactment.
- ***Sri Jagannath v State of Orissa (1954) and Sadasib Prakash Brahmachari v. The State of Orissa (1956)***
    - The Orissa Hindu Religious Endowments Act, 1939 was struck down twice by the apex court — first in Sri Jagannath v State of Orissa (1954) and then in Sadasib Prakash Brahmachari v. The State of Orissa (1956).

Impact of Temple Control Legislation:

- It is argued that in the guise of administering Hindu religious endowments, the state is encroaching upon religious affairs and the temples cannot even conduct pujas as the state has depleted their income. There is large-scale misappropriation of funds that have been unearthed by temple activists and is a matter of public record now.
- According to the HR&CE policy note of 2012-13, Hindu temples own approximately 4,78,545 acres of prime agricultural land; nearly 22,599 buildings; and almost 33,627 sites covering 29 crore sq. ft in area, whose estimated value would be around ₹10 lakh crore.
- However, the income realized by the Tamil Nadu HR&CE Department is only ₹120 crore per year. This is comparatively less than the amount collected from temples as an 'administrative fee'.
- Moreover, it is found that the HR&CE Department collects hundreds of crores as a 'Common Good Fund', which has been objected to by the judiciary.
- The Department has itself admitted that almost 47,000 acres of Hindu temple land have been usurped since 1986 under its "watch".
- The Madras High Court in a 2021 judgment gave 75 directions covering aspects like heritage conservation, protecting and realizing due income from temple properties, audit, the safety of vigrahams, appointment of trustees, and formation of tribunals for speedy dispute resolution.
- However, it is alleged that not even a single direction has complied. Furthermore, the state is silencing temple activists by initiating arbitrary criminal action against them.
- On May 12, 2022, in a Public Interest Litigation (PIL) seeking the removal of executive officers functioning in 47 temples without any orders of appointment, a Division Bench of Madras HC ordered the production of records. The Department has failed to submit a single record till now.
- Additionally, no external audit is being conducted for temples under HR&CE, and there are almost 1.5 million audit objections pending resolution since 1986.

Conclusion:

- It is a well-established fact, particularly after the 42nd Amendment, that secularism implies that the state cannot mix with religion.
- The purpose of temple management is to involve the community.
- It is suggested that the evils of the state perpetuated in the name of 'secular management' must be remedied at the earliest.

Also read: Secularism in India

Nut Graf: *The main aim of temple management by the state is public participation and building consensus among them. However, this has been somewhat hidden due to certain state officials overpowering the temple administration and its religious functioning. It is thus suggested that in order to maintain the true spirit of secularism such practices should be remedied at the earliest.*

Category: POLITY AND GOVERNANCE

1. Towards reducing India's prison footprint

Syllabus: Government policies and interventions and issues arising out of their design and implementation.

Mains: Concerns associated with prisons in India.

Context: Recent proposal to establish a prison complex in Narela, Delhi.

Details:

- During the Constitution Day celebrations (26th November 2022), President Droupadi Murmu shared her experience of visits to prisons across India. She highlighted the plight of prisoners who were incarcerated for prolonged periods for minor offences and the struggles of their poor families.
- She further emphasized that the legislature, executive, and judiciary should work together to address this issue. She also questioned the building of prisons to solve the problem of overcrowding.
- However, in stark contrast, the Delhi Development Authority (DDA) has been directed to allocate 1.6 lakh square metres of land to Delhi's prison department to build a district prison complex.

Prison architecture and associated concerns:

- The Delhi prison would be constructed in two phases - the first for high-risk offenders and the second for undertrials.
- Phase 1 (expected to be completed by April 2024) would comprise a high-security jail with a capacity of 250 high-risk prisoners. The stringent security measures would be incorporated into the design like high walls between cells to prevent inmates from viewing and interacting with each other, office spaces between cells to facilitate better surveillance, etc.
- According to the French philosopher, Michel Foucault, prison architecture is often used as a tool to surveil, torture, and break the souls of inmates. With the newly proposed design of Delhi prison, the administration is looking forward to creating solitary confinement. It should be noted that this can have a serious impact on prisoners' mental health.
- At the Yale School of Architecture in 2017 students of Architecture and Mass Incarceration were asked to design a prison facility for extremely violent offenders as their final project. The models featured open and communal spaces, fresh air, and places for family visits and therapy.

Status of Indian Prisons:

- In India, prisons are governed by the Prisons Act, 1894, which is a colonial law. It is argued that it treats prisoners as sub-standard citizens, and provides the legal basis for punishment to be retributive instead of rehabilitative.
- It is also suggested that the laws are highly casteist and have largely remained unchanged since their formulation. For instance, some jail manuals still emphasize purity as prescribed by the caste system, and the work in prison is assigned on the basis of the prisoner's caste identity.
- Furthermore, Dalits and Adivasis are over-represented in Indian prisons. The National Dalit Movement for Justice and the National Centre for Dalit Human Rights' report 'Criminal Justice in the Shadow of Caste' explains the social, systemic, legal, and political barriers behind this finding.
- It should be noted that legislation like the Habitual Offenders Act and Beggary Laws targets them for reported crimes.
- The main reason behind overcrowded prisons in India is that the government has not done enough to truly prevent crime. The approach adopted is reactive instead of preventive.

For more information on prison reforms, read here: 23 Oct 2018: UPSC Exam Comprehensive News Analysis

Way Ahead:

- President of India during her Constitution Day speech has insightfully noted that progress is antithetical to setting up prisons. Thus the congestion in prisons should be addressed in non-carceral ways. Some measures can be to release unwell/old inmates, reduce penalties, allow bail at affordable costs, expedite trials, etc.
- The public funds should be channelized towards public goods like housing, education, and employment so that people are not forced to commit crimes.
- Justice U.U. Lalit's recent judgment (three-judge bench of the Supreme Court) quoting Oscar Wilde while commuting a death sentence, that 'Every saint has a past, and every sinner has a future' should be imbibed.

Also read: Reforms in Criminal Justice System

Nut Graf: *The speech of the President of India has rightly highlighted the plight of poor prisoners. It is suggested that instead of constructing new buildings to address the issue of overcrowded prisons, efforts should be made to reform prison laws in India which are centuries old.*

F. Prelims Facts

Nothing here for today!!!

G. Tidbits

1. OBC Quota in Local Body Elections

- The Supreme Court has agreed to list an appeal filed by the government of Uttar Pradesh against the directions of the Allahabad High Court to conduct the election to the urban local body without reservation for the Other Backward Classes (OBC).
- This case has gained significance as it raises questions about whether the quota for political representation in urban self-government bodies can be equated with reservation in higher education and public employment for social, educational and economic backward classes.
    - The Uttar Pradesh government believes that there is no flaw in extending reservation to the 79 Backward Class communities listed in the U.P. State Public Services (Reservation for SC, ST and OBC) Act, 1994 in respect of seats and offices of chairpersons of local bodies.
- However, the 1994 Act was enacted to identify these backward classes to provide reservations in higher education and public employment and not for the purpose of political representation.
- Further, in 2010 a Constitution Bench judgment of the Supreme Court in **K. Krishnamurthy v/s Union of India case** had held that the nature and purpose of reservation in relation to local bodies are different from that in relation to higher education and public employment.
    - The court had also said social and economic backwardness cannot be the only criteria for identifying the backward classes inadequately represented politically.

Also read - **The question of OBC reservation in local bodies: CNA Jan 21, 2022**

2. ST Commission holds its ground on impact of new rules on Forest Rights Act

- There has been a growing conflict between the government and the National Commission for Scheduled Tribes (NCST) over the Forest (Conservation) Rules, 2022.
- The NCST in its letter to the Ministry of Environment had highlighted various concerns with respect to the Forest (Conservation) Rules, 2022 which included concerns about the provisions that seek to do away with the mandatory consent clause for the diversion of forest land for other purposes.
- The Commission had pointed out that the removal of the clause to seek the consent of the gram sabhas before the Stage 1 clearance or even after Stage 2 clearance will facilitate the project proponents to push the State governments for “diversion at the earliest” despite having received only partial clearance.

- According to the panel, this could impact the process of recognition of rights under the Forest Rights Act, 2006 (FRA).

- However, the Environment Minister had said that the rules were formulated based on the Forest (Conservation) Act, 1980 and that the NCST's concerns of these rules being in violation of the FRA are not legally tenable.
- The Chairperson of the NCST has said that the position of the panel on the new rules will be the same even after the Environment Ministry dismissed these concerns.

H. UPSC Prelims Practice Questions

Q1. Which of the following statements is/are correct? (Level - Difficult)

1. Kanikkaran is a tribal community found in Kerala and Tamil Nadu.
2. They dwell in the forests of the Nilgiri ranges in Kerala and Tamil Nadu.
3. Kaanikkar Nritham is a form of group dance performed as a rural offering.

Options:

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

Answer: c

Explanation:

- **Statement 1 is correct,** Kanikkaran is a tribal community found in the southern parts of Kerala and Tamil Nadu.
- **Statement 2 is not correct,** Kanikkaran tribal community dwells in **forests near Thiruvananthapuram and Kollam** in Kerala, and **Kanyakumari and Tirunelveli districts** in Tamil Nadu.
- **Statement 3 is correct**, Kaanikkar Nritham is a group dance performed as a ritual offering.
    - The steps of the dancers are perfectly synchronised with the waving of the hands and beating of drums.

Q2. The primary objective of the Vibrant Villages Programme (VVP) is to - (Level - Moderate)

a. Create modern, flourishing villages by focusing on rural development
b. Promote development and communication in border villages
c. Strengthen the rural economy by easing bottlenecks in agriculture

d. Spread scientific awareness to inculcate a sense of innovation

Answer: b

Explanation:

- Vibrant Villages Programme (VVP) envisages coverage of border villages on the northern border having a sparse population, limited connectivity and infrastructure, which often get left out of the development gains.
- The Programme was announced through the Union Budget 2022.

Q3. The government has proposed to regulate online gaming under the provisions of - (Level - Moderate)

a. Prevention of Gambling Act
b. Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021
c. Indian Penal Code
d. The Lotteries (Regulation) Act

Answer: b

Explanation:

- The Ministry of Electronics and Information Technology has released draft amendments to the **Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021** in order to regulate Online Gaming.
- The draft has been formulated to make sure that online games should be offered in conformity with Indian laws and that the users of such games be safeguarded against potential harm.

Q4. The recently launched 'SMART' initiative for quality research focuses on which sector? (Level - Moderate)

a. Internet of Things
b. Vaccine development
c. Ayurveda
d. Urban development

Answer: c

Explanation:

- The **National Commission for Indian System of Medicine (NCISM)** and the **Central Council for Research in Ayurvedic Sciences (CCRAS)** have launched the **'SMART' (Scope for Mainstreaming Ayurveda Research in Teaching Professionals)** programme.
- The Programme aims at boosting scientific research in priority healthcare research areas through Ayurveda colleges and hospitals.
- NCISM and CCRAS are the two prominent institutions under the Ministry of Ayush, for regulating medical education and conducting scientific research respectively.

Q5. With reference to Asian Infrastructure Investment Bank (AIIB), consider the following statements - (Level - Moderate) PYQP (2019):

1. AIIB has more than 80 member nations.
2. India is the largest shareholder in AIIB.
3. AIIB does not have any members from outside Asia.

Which of the statements given above is/are correct?

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

Answer: a

Explanation:

- **Statement 1 is correct,** AIIB has about 105 member nations.
- **Statement 2 is not correct,** China is the AIIB's largest shareholder followed by India and Russia.
- **Statement 3 is not correct,** AIIB has both regional (Asian) as well as non-regional members.
    - AIIB is a multilateral development bank focused on developing Asia, but has members from all over the world.

I. UPSC Mains Practice Questions

1. State management of temples is often justified as a way of ensuring access to temples for worshippers and priests. Critically analyse. (10 Marks, 150 Words) [GS-2, Polity]
2. Overcrowded prison conditions pose multiple legal, financial, and moral problems to the States. Providing alternative punishments and encouraging law reform is the need of the hour. Comment. (15 Marks, 250 Words) [GS-2, Polity & Governance]