

04 Jan 2023: UPSC Exam Comprehensive News Analysis

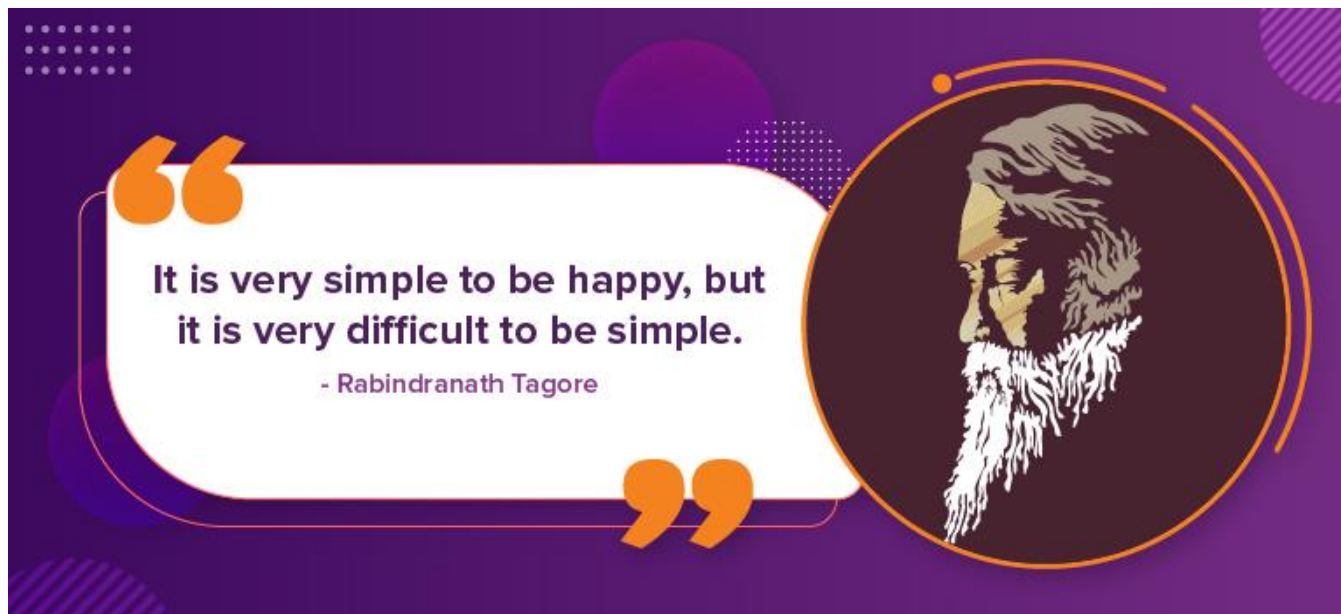


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A. GS 1 Related

Nothing here for today!!!

B. GS 2 Related

Category: INTERNATIONAL RELATIONS

1. On the legality of Israel's occupation

Syllabus: Effect of policies and politics of developed and developing countries

Mains: Israel-Palestine Conflict

Context

The [United Nations General Assembly \(UNGA\)](#) passed a resolution that sought the International Court of Justice (ICJ) to provide its opinion on the legal consequences of Israel's extended occupation of Palestinian land.

Details

- The resolution was passed as 87 member countries voted in favour of the resolution as compared to 26 member countries that voted against it.
- The countries that voted against the resolution include the U.S. and Israel.
- However, India was one among the 53 other countries that abstained from the vote.

For detailed information about "Israel Palestine Conflict", refer to the following article:

[Israel Palestine Conflict](#)**UNGA Resolution**

- The resolution was passed on 30th of December 2022 by the UNGA which urged the [International Court of Justice \(ICJ\)](#) to lend its advisory opinion on the legal consequences of Israel's "occupation, settlement and annexation, including measures aimed at altering the demographic composition, character and status of the Holy City of Jerusalem, and from its adoption of related discriminatory legislation and measures."
 - The U.S. voted against the resolution and major European countries abstained, but the resolution gained unanimous support from the Arab countries.

- Whenever a referral is made to the ICJ, which is the highest court of the UN,
 - It can either result in a settlement that can be arrived at with a party withdrawing its case or,
 - It can result in a trial followed by a verdict.
- However, it is to be noted that, while the rulings of the ICJ are binding, the ICJ does not have the powers to enforce them.
- The latest UNGA resolution coincides with the return of Benjamin Netanyahu as the Prime Minister of Israel and the most far-right coalition in the history of Israel is taking charge of the administration in Israel.

Path ahead

- The current six-party right-wing coalition at the helm in Israel has five ultra-orthodox and far-right Jewish nationalist parties.
- There have been increasing concerns about the new hard-line regime causing a significant impact on Palestinians as many of the allies are ultranationalist West Bank settlers.
- A policy document that mentions the agenda of the new government coalition, says that the top priority of the government will be to expand Israeli settlements in the West Bank and the legalisation of illegally built outposts.
- The new government's coalition agreement aims to annex the West Bank at an appropriate time considering the national and international interests of Israel.

Nut graf: *The UNGA has passed a resolution that has asked the ICJ's legal opinion on the consequences of the prolonged occupation of the Palestinian territory by Israel, alleging that Israeli practices are affecting the human rights of the Palestinian people. The Israeli leaders have however called it an "outrageous resolution" and say that the move would affect the dialogue between Israel and Palestine.*

Category: GOVERNANCE

1. How is India moving to regulate online gaming?

Syllabus: *Government policies and interventions for development in various sectors and issues arising out of their design and implementation*

Mains: *Regulating online gaming in India*

Context

The Ministry of Electronics and Information Technology (MeitY) has come up with draft amendments to regulate online gaming.

Details

- The MeitY has recently released draft amendments to the [IT \(Intermediary Guidelines & Digital Media Ethics Code\) Rules 2021](#), pertaining to Online Gaming for public consultations.
- The main objective of the amendments is to make sure that the online games are in conformity with Indian legislation and to protect users against potential harm.

For detailed background information “on online gaming in India” refer to the following article:

[Sansad TV Perspective: Regulating Online Gaming Industry](#)

Proposed amendments

- The proposals include provisions to protect the interests of users by establishing set procedures and norms for verification and user engagement.
- The draft proposal further defines what constitutes an “online game”.
 - According to this, an online game is “a game that is offered on the internet and is accessible by a user through a computer resource if he makes a deposit with the expectation of earning winnings”.
 - “Winning” here accounts for any prize such as in cash or kind, which is given to a participant based on his/her performance in accordance with the rules of such online games.
- The draft proposals aim to address the debate in the sector about the definitions of a “game of skill” and a “game of chance”.
- The draft amendments also endeavour to ensure greater transparency.
- As per the proposals, the game operators would be mandated to verify users on the platform and also inform users about the terms of services, the policies related to withdrawal or refund of their financial deposit, measures taken for the protection, and the potential risk of financial loss and addiction.
- Further, the issue of addiction must be addressed by using repeated warning messages, if in case a user exceeds a prescribed amount of time playing an online game.
- Additionally, the online gaming platforms would be required to:
 - Set up a self-regulatory body that verifies the game before hosting it
 - Carry a registration mark on all its recognised online games
 - Appointment of a Chief Compliance Officer, who shall coordinate with the law enforcement agencies of the country and ensure compliance
 - Put in place a grievances resolution mechanism

Industry's response

- Industry experts have appreciated the government's move to regulate online gaming.
- Experts opine that the move will help tackle the issues of anti-national and illegal offshore gambling platforms.
- Further, a uniform framework set up by the government will increase investor confidence and attract investments into the sector.

Key concerns associated with the proposals

- A few experts feel that the amendment Rules still consider all gaming intermediaries under a broad category without recognising their size or risk.
- Further, all gaming intermediaries are mandated similar compliances such as mandating them to have India-based officers. This could discourage top global players to start their services in the country.

Nut graf: *Recognising the rapid growth of the online gaming industry and the important role played by the industry in the Indian economy, the MeitY has come up with the draft amendments to the IT intermediary rules 2021 which ensure that online games are offered in conformity with Indian laws.*

C. GS 3 Related

Nothing here for today!!!

D. GS 4 Related

Nothing here for today!!!

E. Editorials

Category: ENVIRONMENT

1. Preventing animal cruelty is a duty of the state

Syllabus: GS-3, Environment and Biodiversity conservation.

Mains: Jallikattu and associated concerns.

Prelims: Prevention of Cruelty to Animal Act, 1960.

Context: A Constitution Bench of the Supreme Court is about to deliver its verdict on the validity of Tamil Nadu's law permitting the practice of *jallikattu* in Tamil Nadu.

Background Details:

- *Jallikattu* is a sport in Tamil Nadu where men compete with each other to hold on to the humps of agitated bulls that are released into an open arena. It is usually held in the Pongal season.
- In *Animal Welfare Board of India v. A. Nagaraja* (2014), a two-judge Bench of the Supreme Court (SC) stated that *jallikattu* was illegitimate. The court observed that it was a cruel practice that caused unnecessary pain and suffering to the animal.
- However, Tamil Nadu Government tried to resurrect the sport's legality and passed a law permitting the sport.
- SC will review the validity of the law. The way the court resolves the issue would have a bearing on the future of animal rights and safety in India.

For more information on Jallikattu, read here: [Jallikattu - Meaning & Important Facts for UPSC](#)

Animal Rights and Safety:

- It should be noted that none of the rights mentioned in Part III of the Constitution is explicitly guaranteed to animals. For example, the Right to equality (Article 14) and the Right to life (Article 21) are conferred to a 'person'.
- There are some provisions in the [Directive Principles of State Policy \(DPSP\)](#) and the Fundamental Duties that highlight the responsibility of the state and human beings to protect and improve the natural environment. But these are not enforceable.
- The initial effort to legislate on animal welfare, that is, the Prevention of Cruelty to Animals Act (PCA Act), 1960, was based on the collective conscience that it was morally wrong to inflict unnecessary pain and suffering on animals.
- Though PCA criminalizes certain actions that cause cruelty to animals, it has some shortcomings also. For instance, the use of animals for medical experiments is exempted from the Act.
- The SC used the PCA Act and affirmed that *Jallikattu* falls within the boundaries of forbidden actions. It declared that *jallikattu*, in and by itself, amounted to a violation of the existing provisions of the PCA Act, and the [fundamental duty](#) contained in Article 51A(g).
 - Article 51A(g) requires citizens "to protect and improve the natural environment including forests, lakes, rivers, and wildlife, and to have compassion for living creatures."
- However, Tamil Nadu amended the PCA Act in 2017 citing that both the state and the Union government have the power to legislate on issues concerning cruelty to animals. The state government further secured the President's imprimatur for the law.

Arguments of the petitioner:

- It should be noted that [judicial review](#) of legislation can be made on two grounds:
 - Whether the legislature is competent to enact the law.
 - Whether the law violates any fundamental rights delineated in Part III of the Constitution.
- It is claimed by the petitioners that Tamil Nadu's amendments failed on both grounds.
 - The petitioners recognized the power of State legislature to make laws, as 'Prevention of animal cruelty' is mentioned in Entry 17 of the Concurrent List of [Schedule VII to the Constitution](#). But excluding *Jallikattu* from the PCA Act will result in condoning cruelty to animals. Thus, it should be seen as a colourable action that bears no nexus to Entry 17.
 - It is also argued that the expanded meaning of the word "life" (in Article 21) over the years includes a right against disturbance to the basic environment. This implies that the life of an animal should also be treated with "intrinsic worth, honour, and dignity".

Associated Concerns:

- The arguments related to [fundamental rights](#) would raise several questions like:
 - Do animals have personhood?
 - Does the idea of justice include a guarantee of animal rights?
 - What does that duty of care towards animals entail?
 - How to balance animal care with other rights guaranteed to human beings?
- Ensuring the Right to life and the Right to equality would lead to several bizarre consequences.

Way Ahead:

- As per philosopher Martha Nussbaum, our duty of care towards animals should not originate due to our similarities to them but we must see "each form of animal life in all its beauty and strangeness."
- Moreover, instead of focusing on personhood, a better approach would be to see it in the context of our own right to live in a world that treats animals with equal concern.
- It is possible to argue that a human right to a healthy environment would include a human right to animal welfare. In this context legislating to prevent animal cruelty would transform into a binding duty on the state.

Also read: [Comprehensive News Analysis - July 07, 2017](#)

Nut Graf: *The verdict of the Supreme Court regarding the validity of the law permitting Jallikattu sport in Tamil Nadu is awaited, as it will bring out a clear picture of animal rights and welfare. Furthermore, animal welfare is the duty of both the state and the citizen because it will result in a better world that treats animals with equal concern and ensure a healthy environment.*

Category: INDIAN CONSTITUTION AND POLITY

1. A late but right call by Kerala Governor

Syllabus: GS-2, Appointments to various constitutional posts.

Mains: Oath administration power of the Governor.

Prelims: Oaths, Governor.

Context: The issue of reinstating the former Minister of Kerala by the Governor.

Background Details:

- According to Article 163 of the Constitution, there shall be a Council of Ministers headed by the Chief Minister (CM) to aid and advise the [Governor](#) in the exercise of his functions. Furthermore, the CM shall be appointed by the Governor, who shall also appoint the other Ministers on the advice of the Chief Minister.
- As per Article 164, all Ministers shall hold office during the pleasure of the Governor.
- Using Articles 163 and 164, the governor of Kerala, Mr. Arif Mohammad Khan had earlier attempted to drop some Ministers who had allegedly insulted him in public. However, it was clarified that such a measure cannot be taken, and the “pleasure doctrine” cannot be extended for this.

Also read: [Chief Minister & Council of Ministers](#)

Details about the case:

- A Minister in Kerala was made to resign from the Cabinet because of his speech (to party workers) criticizing the Indian Constitution.
- However, due to inner party criticism, the party decided to reinstate the Minister and demanded time from the Governor for the swearing-in ceremony. The Governor of the state was quite reluctant to give a date and was reported to be consulting his lawyers on this issue.
- Governor’s power to administer Oath:
 - It is stated in Article 164(3) that the Governor shall administer the oaths of office and secrecy to a Minister before he assumes office.
- Furthermore, for a person to become Minister, he must either be a member of the [State Legislative Assembly](#) or the Legislative Council (if exists) and should not have suffered any disqualification provided under the Constitution.
- In this case, the Minister concerned was elected as an MLA and has not suffered any disqualification for his so-called anti-constitutional speech.

- The oaths for various constitutional posts are prescribed under Schedule III of the Constitution, and without it, a person cannot assume office.
- If the authority empowered to administer the oath refuses to do so, what should subsequently happen is a question that has been raised multiple times before the courts.

Similar Case:

- In April 1978, Vasantha Pai, a Senior Advocate got elected as a Member of the Tamil Nadu Legislative Council. As per Article 188, he should have been administered the oath by the Governor or a person appointed on his behalf under Schedule III.
- He refused to take oath before the Pro tem Chairman (nominated by the Governor) and instead wished the Governor to administer the oath to him.
- As he did not get any response from the then Governor, he sent his oath in the form of a letter duly signed by him to the Governor.
- Referring to Article 188, he further highlighted that it was the sacred constitutional duty of the Governor to administer oath and no red tape or bureaucracy should be permitted to obstruct it.
- Subsequently, a [writ](#) petition was also filed before the Madras High Court seeking a declaration that he has complied with the constitutional requirement of taking the oath before assuming office.
- The court permitted his entry to the Legislative Council (Vasantha Pai, July 1978).

Conclusion:

- The above case thus highlights that in the present scenario also, the concerned minister has the option to write a registered letter to the Governor signing the oaths of office and secrecy and later move the High Court of Kerala for appropriate declaratory relief.

Also read: [Anti Defection Law, Provisions under Tenth Schedule](#)

Nut Graf: *It is explicitly stated in the Indian Constitution that the Governor of the state will appoint Ministers on the advice of the Chief Minister and administer him/her the Oath of Office and Secrecy. However, examples from the past have also shown that in case of refusal by the Governor, a registered letter can be sent to him followed by a writ petition in the High Court.*

F. Prelims Facts

Nothing here for today!!!

G. Tidbits

1. No need for extra curbs on free speech of Ministers: SC

The state is under a duty to affirmatively protect the rights of a person under Article 21, whenever there is a threat to personal liberty, even by a non-state actor



**JUSTICE
V. RAMASUBRAMANIAN**



State has an obligation to intervene when acts of a private actor may threaten the life or liberty of another individual



**JUSTICE
B.V. NAGARATHNA**

Image source: The Hindu

- The Supreme Court has held that there is no reason to impose “additional restrictions” on the [right to free speech](#) of Ministers.
- The court further added that the government would not be vicariously liable for the remarks made by ministers by invoking the principle of collective responsibility, even if the comments are linked to state affairs or to defend the government.
- The court held that it is not possible to extend the concept of collective responsibility to statements orally made by ministers outside the House as the Prime Minister or the Chief Minister does not have disciplinary control over the members.
- However, Justice B.V. Nagarathna differed with the majority view and said that if any comments made by ministers are traceable to any affairs of the state or for defending the government, they can be attributed vicariously to the government by invoking the principle of collective responsibility as long as such statements/comments represent the view of the government too.

2. Not all religious conversions are illegal: Supreme Court

- The Supreme Court has held that all religious conversions cannot be presumed to be illegal.
- The provision under question was Section 10 of the **Madhya Pradesh (Freedom of Religion) Act, 2021**.
 - According to the provisions of Section 10(1) and (2) of the Act, the person who intends to convert and a priest/person who organises the conversion are mandated to provide a two-month prior declaration to the District Magistrate that the proposed conversion is not motivated by force, undue influence, coercion or allurement.
 - A High Court's decision had frozen this mandatory provision.
- Solicitor-General Tushar Mehta appearing for Madhya Pradesh said that Section 10 of the 2021 Act was on the same subject matter as Section 5 of the Madhya Pradesh Dharma Swatantrya Adhiniyam of 1968, which was upheld by a Constitution Bench in a judgment in **Rev. Stanislaus v/s. State of Madhya Pradesh** in 1977.
- In the 1977 judgement the Court had held that the word "propagate" in Article 25 of the Constitution did not provide the right to convert another person to their own religion, but to spread one's religion by an exposition of its tenets.
- The Constitution Bench had also added that the [right to freedom of religion](#) was not guaranteed in respect of one religion only, but covered all religions alike.

H. UPSC Prelims Practice Questions

Q1. Consider the following statements about the Delimitation Commission:

1. Both the Centre and the States can set it up for the division of constituencies at national and state levels respectively.
2. It works under the administrative control of the Election Commission.

Which of the above statements is/are correct?

- a. 1 only
- b. 2 only
- c. Both 1 and 2
- d. Neither 1 nor 2

Answer: d

Explanation:

- **Statement 1 is not correct**, The Delimitation commission is **set up by the Government of India (Union government)** under the provisions of the Delimitation Commission Act.
 - The Parliament has enacted delimitation Acts in 1952, 1963, 1973 and 2002 providing for the appointment of the Delimitation Commission.
- **Statement 2 is not correct**, The Delimitation Commission **works in collaboration** with the Election Commission of India.

Q2. Consider the following statements:

1. Indian Science Congress held its 108th session in 2023.
2. The session focussed on “Science & Technology for Sustainable Development & Women Empowerment”.
3. India was placed in the 40th position in the Global Innovation Index 2022 published by WEF.

Which of the above are correct statements?

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

Answer: a

Explanation:

- **Statement 1 is correct**, 108th Indian Science Congress (ISC) will be held from the 3rd to the 7th of January 2023.
- **Statement 2 is correct**, The focal theme of the 108th ISC is “Science and Technology for Sustainable Development with Women Empowerment”.
- **Statement 3 is not correct**, India moved to the 40th position in the Global Innovation Index in 2022.
 - The Global Innovation Index (GII) is published by **INSEAD, Cornell University, and the World Intellectual Property Organization (WIPO)**.

Q3. Arrange the following states in the decreasing order of availability of Bauxite:

1. Andhra Pradesh
2. Odisha
3. Jharkhand
4. Gujarat

Options:

- a. 2-3-1-4
- b. 3-2-1-4
- c. 2-1-4-3
- d. 1-3-2-4

Answer: c

Explanation:

- The ranking of Indian states based on the availability of Bauxite, as per the Indian Minerals' Yearbook,
 - Odisha (51%)
 - Andhra Pradesh (16%)
 - Gujarat (9%)
 - Jharkhand (6%)

Q4. Which of the following statements are not correct about the Border Roads Organisation?

1. It works under the Ministry of Road Transport and Highways.
2. It constructs the roads in friendly neighbourhood countries on India's behalf.
3. It assists in the post-disaster reconstruction of roads in India.

Options:

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

Answer: a

Explanation:

- **Statement 1 is not correct,** The Border Roads Organisation functions under the control of the Ministry of Defence.
- **Statement 2 is correct,** The Border Roads Organisation is also operational and functional in India's friendly countries like neighbouring countries such as Afghanistan, Bhutan, Myanmar, and Sri Lanka.
- **Statement 3 is correct,** The Border Roads Organisation also undertakes reconstruction works in case of a calamity or natural disaster.

Q5. Consider the following statements: (PYQ 2020)

1. Coal ash contains arsenic, lead, and mercury.
2. Coal-fired power plants release sulphur dioxide and oxides of nitrogen into the environment.
3. High ash content is observed in Indian coal.

Which of the above given statements is/are correct?

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

Answer: d

Explanation:

- **Statement 1 is correct**, Coal ash contains contaminants like mercury, cadmium and arsenic.
- **Statement 2 is correct**, Coal-fired power plants release oxides of nitrogen, sulfur dioxide, particulate matter (PM), mercury, and dozens of other substances known to be hazardous.
- **Statement 3 is correct**, Indian coal has comparatively higher ash content due to the drift theory of the formation of coal deposits in India.
 - The ash content of coal produced in the country is generally 25 to 45% whereas the average ash content of imported coal varies from 10 to 20%.

I. UPSC Mains Practice Questions

1. Hate speech denies human beings the right to dignity. Comment on the need for a stricter law dealing with hateful speeches by individuals in powerful positions in society. (150 Words, 10 Marks) [GS-2, Polity and Governance]
2. Preventing animal cruelty is the duty of the state and citizens alike. Comment. (250 Words, 15 Marks) [GS-3, Ecology and Environment]