

VAID ICS LAW

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(MONTHLY LEGAL CURRENT)

(NOV, 2024)

**UPPCS-J/APO/OTHER JUDICIAL
EXAMS**

UNCCD & European Commission Joint Research Centre (JRC):

Why in News ? The UNCCD & EUJRC have recently published World Drought atlas 2024.

About the UNCCD (United Nations Convention to Combat Desertification):

- **The UNCCD, established in 1994**, is the sole legally binding international agreement linking the environment, development, and sustainable land management.
- It focuses on combating desertification, land degradation, and mitigating the effects of drought, particularly in arid, **semi-arid, and dry sub-humid areas**.

Key Objectives:

- Promote sustainable land management to improve living conditions in drylands.
- Develop national action plans to combat desertification.
- Strengthen resilience to drought through global cooperation and knowledge sharing.
- **Achieve Land Degradation Neutrality (LDN)** by restoring degraded land to offset degradation.

Membership:

- **It includes 197 parties**, making it a near-universal platform for combating land-related environmental issues.

Initiatives:

- **Drought Initiative:** Focuses on proactive drought management strategies.
- **Great Green Wall Initiative:** Aims to restore Africa's degraded landscapes.
- **Science-Policy Interface (SPI):** Bridges scientific research and policy-making.

Significance:

- The UNCCD works to reduce environmental vulnerabilities, enhance food and water security, and promote sustainable livelihoods.

About European Commission Joint Research Centre (JRC):

- The Joint Research Centre (JRC) is the European Commission's in-house science and knowledge service. **Founded in 1957**, it provides independent scientific advice and data to support EU policies.

Key Roles:

Policy Support: Delivers evidence-based recommendations to enhance EU policy effectiveness.

Scientific Research: Focuses on interdisciplinary fields **like climate change, energy, food security, and disaster risk management.**

Innovation: Develops new methodologies, technologies, and tools for societal challenges.

Data Dissemination: Shares datasets, reports, and tools with global stakeholders.

Focus Areas:

Climate and Environment: Understanding climate risks and solutions.

Agriculture and Food Security: Analyzing food systems and agricultural policies.

Disaster Risk Reduction: Developing early warning systems and risk assessments.

About the International Drought Resilience Alliance (IDRA) :

- It is a global coalition launched in **November 2022 during the 27th UN Climate Change Conference (COP27)** to address the growing challenges of droughts worldwide.
- It aims to **accelerate actions and build resilience against the increasing frequency and intensity of droughts**, exacerbated by climate change and unsustainable land and water management.

Founding and Leadership:

- IDRA was co-chaired by **Spain and Senegal** during its inception.
- It aligns closely with the goals of the UN Convention to Combat Desertification (UNCCD).

Controversies Surrounding Pardoning Power in the U.S.

Why in News? The outgoing US President Joe Biden has recently pardoned son **Hunter**, sparing him a possible jail term for federal felony gun and tax convictions

What is the Pardoning Power?

- The pardoning power is a constitutional authority granted to the **President under Article II, Section 2, of the U.S. Constitution.**
- It allows the President to grant pardons and reprieves for federal offenses, except in cases of impeachment.

Historical Context of Pardoning Power in the U.S.

- The framers of the Constitution included this power to provide a mechanism for mercy and justice, ensuring the President could rectify judicial errors or show compassion.
- Historically, it has been used to heal **national wounds (e.g., after the Civil War)** or as a gesture of clemency (e.g., **pardoning Vietnam War draft evaders**).

Controversies Around Pardoning Power

- **Abuse of Power Allegations:** Concerns arise when pardons appear politically motivated, favoring allies or serving personal interests.
- **Notable Controversies:**

Richard Nixon's Pardon (1974): Granted by President Gerald Ford after Nixon's resignation over the Watergate scandal. Critics saw it as **undermining accountability.**

Donald Trump's Pardons: His pardons of associates like **Michael Flynn and Roger Stone** drew criticism for potential cronyism.

Lack of Oversight: The Constitution provides no explicit checks on the President's pardoning decisions, leading to debates about its misuse.

Current Controversy:

- The recent debate centers on allegations of Presidents using pardons to shield themselves or allies from investigations.
- Critics argue for clearer **guidelines or legislative reforms** to ensure accountability while maintaining the power's original purpose of mercy and justice.

Arguments in Defense of Pardoning Power:

- Advocates argue it is a necessary tool to correct injustices and provide relief in extraordinary cases.
- It is seen as a **critical check against judicial errors** and excessive punishments.

Calls for Reform:

Proposals include:

- Requiring greater transparency in the pardoning process.

- Imposing limits on the timing or recipients of pardons, such as restricting self-pardons or pardons during lame-duck periods.

Key Takeaway:

While the pardoning power is a cornerstone of the U.S. constitutional framework, its potential for abuse has led to recurring controversies. Balancing its role as a tool of justice with safeguards against misuse remains a contentious issue in American politics.

Electronic Tracking of Undertrials on Bail: Benefits and Challenges:

Why in News? This article explores the concept of electronically tracking undertrial prisoners released on bail, a measure proposed to address India's prison overcrowding crisis.

What is Electronic Tracking of Prisoners?

- It refers to the use of electronic devices, such as ankle bracelets, wristbands, or other wearable technologies, to monitor the location and movements of individuals who are under judicial supervision but not confined within a prison.

Background on Undertrials and Prison Overcrowding in India:

- As of December 2022, Indian prisons have a **131.4% occupancy rate, housing 5,73,220 inmates** against a **capacity of 4,36,266**.
- **75.8% of the prisoners are undertrials**, reflecting systemic delays in justice delivery.
- The Supreme Court's "Prisons in India" report, released by President Droupadi Murmu, highlights electronic monitoring as a cost-effective alternative to reduce overcrowding.

Benefits of Electronic Tracking:**Cost-Effectiveness:**

- Tracking devices (ankle or bracelet monitors) cost Rs **10,000–15,000 per prisoner** compared to **1 lakh annually spent per undertrial** in prisons.
- Reduction in administrative overhead, as fewer personnel are needed to manage prisoners on bail.

Decongesting Prisons:

- Implementing electronic monitoring can relieve the strain on overpopulated facilities, creating a better environment for reformative practices.

Improved Justice Delivery:

- Helps balance security needs and personal liberty by ensuring individuals comply with bail conditions while avoiding prolonged incarceration.

Challenges of Electronic Tracking:**Privacy Concerns:**

- Monitoring imposes surveillance that may infringe on the right to privacy, protected under **Article 21 of the Indian Constitution**.
- Supreme Court's recent judgment rejected Google Maps-based tracking for foreign nationals on bail, highlighting privacy violations.

Stigma and Social Isolation:

- Wearing visible devices can lead to societal stigma, impacting mental health and reintegration into society.

Financial Burden:

- While India proposes government-funded trackers, examples from the US show individuals often bear the costs, adding to their financial strain.

Potential for Overreach:

- Monitoring could extend punitive measures beyond physical prisons, creating a system of "e-carceration."

Limited Applicability:

- The Law Commission suggests its use only for grave and heinous crimes involving repeat offenders, necessitating legislative changes.

Lessons from International Practices:

United States:

- Widespread use of **electronic monitoring** has been criticized as extending the carceral system into the community, **disproportionately affecting marginalized groups**.
- Reports highlight issues of **surveillance, stigma, and excessive invasions** of privacy through home visits and mandatory testing.

Best Practices:

- Consent-based tracking with clear safeguards against human rights violations.
- Policy transparency and judicial oversight to prevent abuse.

Israel-Lebanon Ceasefire and UNSC Resolution 1701:

Why in News? Israel and Lebanon entered into a ceasefire after Israel's security cabinet approved a US-backed proposal to end the 13-month-long conflict.

the proposal follows Resolution 1701 and calls for a cessation of hostilities within 60 days.

About the United Nations Security Council Resolution 1701:

- It was adopted on August 11, 2006, during the Israel-Lebanon conflict (also known as the 2006 Lebanon War).
- The resolution aimed to bring an end to hostilities between Israel and Hezbollah and to outline steps for achieving long-term peace and stability in the region.

Key Provisions of Resolution 1701:**Immediate Ceasefire:**

- Called for a full cessation of hostilities between Israel and Hezbollah.
- Demanded that Hezbollah stop all attacks, and Israel end all military operations in Lebanon.
- Deployment of Lebanese and UN Forces:
- Required the **Lebanese Armed Forces (LAF)** to deploy in southern Lebanon as Israel withdrew its troops.

- Strengthened the mandate of the **United Nations Interim Force in Lebanon (UNIFIL)** to assist the LAF in maintaining peace and security.

Buffer Zone:

- Established a buffer zone free of armed personnel, weapons, and assets between the **Blue Line** (the Israel-Lebanon border) and the **Litani River**.
- Prohibited Hezbollah from operating in this area.

Arms Embargo:

- Called for all states to prevent the supply of weapons to non-state actors in Lebanon, targeting Hezbollah's arms supply.

Lebanon's Sovereignty:

- Reaffirmed support for the sovereignty, territorial integrity, and political independence of Lebanon.
- Stressed that there should be no foreign forces in Lebanon without the consent of its government.

Prisoner Exchange:

- Encouraged efforts to resolve the issue of Israeli soldiers captured by Hezbollah and Lebanese prisoners in Israeli custody, though it did not explicitly mandate an exchange.

Interpretation of the Places of Worship (Special Provisions) Act, 1991:

Why in News? Recently a district court in Sambhal ordered a survey of the Shahi Jama Masjid, the town in western Uttar Pradesh that led to violence.

The court's order came in a plea which claimed that Sambhal's Jama Masjid was built on the site of a Hindu temple. This is similar to claims made in the cases of **Gyanvapi mosque in Varanasi**, the **Shahi Idgah in Mathura**, and the **Kamal-Maula mosque in Madhya Pradesh's Dhar**.

About the Places of Worship (Special Provisions) Act, 1991 :

- The Places of Worship (Special Provisions) Act, 1991, was enacted to maintain the religious character of places of worship as it existed on 15th August 1947, and to prevent new disputes regarding such places.
- The Act aims to preserve communal harmony by providing a legal framework for respecting the status quo of religious places.

Key Provisions of the Act:**Section 3:**

- Bars the conversion of any place of worship from one religious character to another as it stood on 15th August 1947.

Section 4:

- Confirms the status of religious places as of 15th August 1947.
- Exempts Ram Janmabhoomi-Babri Masjid dispute from its purview.

Section 5:

- Exempts ancient and historical monuments or archaeological sites and remains under the **Ancient Monuments and Archaeological Sites and Remains Act, 1958.**

Penalty Provisions:

- Imposes penalties for violating the Act, including imprisonment and fines.

Objectives of the Act:

- Prevent religious disputes regarding places of worship.
- Preserve India's secular fabric by respecting historical religious identities.
- Maintain public order and communal harmony.

Recent Cases and Judicial Interpretations:**1. Gyanvapi Mosque Case (2022-2024):**

- A dispute arose regarding the Gyanvapi Mosque in Varanasi, where petitioners claimed it was built over a destroyed Hindu temple.

Court Ruling:

- The **Varanasi District Court** allowed the survey of the premises.
- Opponents argued this **violates the 1991 Act** by altering the religious character of the mosque.

Supreme Court's Observations:

- The Act's provisions were highlighted to emphasize the status quo principle.
- The Court sought a balance between legal rights to survey (in civil disputes) and the overarching principle of the Act.

2. Kashi Vishwanath-Gyanvapi Dispute:

Legal Stand: Petitioners sought restoration of the original temple, invoking historical destruction.

Judicial Observations:

- The judiciary reaffirmed the intent of the 1991 Act to avoid reopening historical disputes, urging litigants to adhere to its provisions.

3. Mathura Krishna Janmabhoomi-Shahi Idgah Case:

- A suit was filed claiming that the Shahi Idgah Mosque was built over Krishna Janmabhoomi.

Judicial Interpretation:

- The district court entertained the suit despite the Act, sparking debates over its applicability.
- Higher courts highlighted the supremacy of the 1991 Act in maintaining religious status quo.
- Supreme Court's Stance on the Act

In Sundaram v. Union of India (2023), the Supreme Court observed:

- The Act upholds secularism as a fundamental constitutional value.
- It prevents historical wrongs from being used as a pretext for present disputes.
- The exceptions under the Act, such as the Ram Janmabhoomi case, do not dilute its larger purpose.

Judiciary as a "State" under Article 12:

Article 12 of the Indian Constitution defines the term "State" for the purposes of Part III (Fundamental Rights). It includes the Government and Parliament of India, Government and Legislature of each State, and all local or other authorities within the territory of India or under its control.

The question arises whether the Judiciary can be considered a "State" under Article 12.

Judiciary as "State" Under Article 12:

- When Judiciary Acts in its Administrative Capacity:
- The judiciary is regarded as a "State" under Article 12 when it performs administrative functions.

Example: Recruitment of staff, allocation of resources, or issuing administrative orders fall under this category.

When Judiciary Acts in Its Judicial Capacity:

- The judiciary, while performing its judicial functions, is generally not considered a "State."
- This is because judicial actions, such as the pronouncement of judgments, are independent and not subject to the writ jurisdiction of courts.

Case Laws: Indian Context

Naresh Shridhar Mirajkar v. State of Maharashtra (1966):

- The Supreme Court ruled that judicial decisions made by courts cannot be challenged as violating fundamental rights under Article 32.

Significance:

- It established that the judiciary, when performing its judicial functions, is not "State" under Article 12.

A.R. Antulay v. R.S. Nayak (1988):

- The Supreme Court acknowledged that judicial orders may inadvertently affect fundamental rights but stated they cannot be challenged as actions of the "State."

Significance:

- Reinforced the idea that judicial decisions are immune from challenges under Part III as actions of the "State."

Rupa Ashok Hurra v. Ashok Hurra (2002)

- The doctrine of judicial finality was emphasized, holding that judiciary in its judicial role cannot be equated with "State" for the purposes of Article 12.

Significance:

- It reaffirmed the distinction between administrative and judicial actions.

Prem Chand Garg v. Excise Commissioner (1963):

- The Supreme Court stated that when courts issue rules or take administrative actions, they must adhere to the Fundamental Rights enshrined in the Constitution.

Significance:

- Demonstrated that judiciary can be subjected to Part III when functioning administratively.

Shri Kumar Padma Prasad v. Union of India (1992)

- In cases where judiciary assumes administrative roles, such as appointments or administrative orders, it is accountable as a "State."

Significance:

- Strengthened the administrative-jurisdiction dichotomy of the judiciary under Article 12.

The 1964 Hague Convention on Civil Procedure/ Mutual Legal Assistance Treaty (MLAT)

Why in News ? Securities and Exchange Commission in USA has no jurisdiction to summon foreign nationals like Gautam Adani, they should go via proper channels.

The 1964 Hague Convention on Civil Procedure and Mutual Legal Assistance Treaty (MLAT) deal with such cases.

What is the 1964 Hague Convention on Civil Procedure?

The 1964 Hague Convention on Civil Procedure (formally known as the Hague Convention of 1 March 1954 on Civil Procedure) is an international treaty aimed at promoting judicial cooperation between countries in matters of civil and commercial law. It was designed to address challenges in cross-border legal proceedings and facilitate the smooth functioning of civil justice systems internationally.

Key Objectives:

- **Facilitating Legal Proceedings Across Borders:** Streamlines the process of serving judicial and extrajudicial documents and obtaining evidence abroad.
- **Judicial Cooperation:** Promotes cooperation between legal systems of member countries to remove procedural barriers.
- **Protection of Rights:** Ensures that parties in cross-border legal cases have access to justice without discrimination.

Main Provisions:

Transmission of Judicial and Extrajudicial Documents:

- Provides a mechanism for transmitting legal documents between countries.
- Establishes Central Authorities in each member state to handle such requests.
- Ensures documents are served according to the laws of the destination country.

Taking Evidence Abroad:

- Facilitates obtaining evidence from another country for use in legal proceedings.
- Allows for letters rogatory (formal requests for judicial assistance) between countries.

Legal Aid and Access:

- Promotes access to legal aid for foreign nationals in civil or commercial disputes.
- Prohibits discrimination in providing legal aid based on nationality.

Elimination of Legalization Requirements:

- Abolishes the need for the legalization of documents (e.g., apostille) for use in civil and commercial cases between member states.

Protection of Procedural Rights:

- Ensures fair treatment of foreign litigants in civil and commercial matters.

India and the Hague Conventions:

- **India is a party to the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (1965)** but not to the 1964 Hague Convention on Civil Procedure.
- However, India's participation in related conventions underscores its commitment to international legal cooperation.

About Mutual Legal Assistance Treaty (MLAT):

- A Mutual Legal Assistance Treaty (MLAT) is a formal agreement between **two or more countries to cooperate in legal matters**, particularly in the investigation and prosecution of crimes.
- MLATs are designed to facilitate the **sharing of evidence, legal documents**, and other assistance required for cross-border criminal investigations.

Judicial reform in India: Challenges & Way forwards

- Exactly one year ago, the Supreme Court's Centre for Research and Planning (CRP) published a report, 'State of the Judiciary', in which the current Chief Justice of India (CJI) Sanjiv Khanna's suggestions find a place.

What are challenges that article highlights?

- ❖ The **administrative bottlenecks**
- ❖ Subordinate Court Backlogs - Over 45 million civil and criminal cases are pending
- ❖ **55 per cent of a judicial officer's day in the criminal courts** is spent on routine administrative tasks such as **issuing summons and setting dates**, rather than substantive judicial work.
 - ❖ Case Management Problems -Poor case-flow management systems
 - ❖ Structural Issues - Limited resources and infrastructure
 - ❖ Administrative Overload on Judges
- ❖ **Shortage of qualified people in the court registries.**
- ❖ There is a **27 per cent shortage of non-judicial staff** across the country. Some states like Bihar, Rajasthan and Telangana had shortages veering nearer to **50 per cent**.

Reforms Needed :

- ❖ Performance Metrics for Judges & positive reinforcement for performers (SC Centre for research and planning)
- ❖ Empower supervisory authorities (High Courts) to oversee subordinate court performance
- ❖ Leveraging Technology – VC facility – Summoning etc
- ❖ Induction of Experts from Outside the Judiciary
- ❖ **Divesting administrative responsibilities**
- ❖ **open reviews of case disposal**

What is Open review?

Open reviews involve a transparent and systematic examination of how cases are being managed and disposed of by lower courts.

This can include:

Performance audits of judges and court staff.

Monitoring the **pendency of cases** and reasons for delays.

Identifying procedural bottlenecks or inefficiencies in case management.

Ensuring accountability and adherence to prescribed timeframes for different case types.

Case study: Cataract Blindness Project of the 1990s/**Steps Taken :**

- **e-filing**
- **digitization**
- **half the district courts**
- **Delhi High Court's Zero Pendency Courts project**

India's undertrial prisoners: Section 479 of the BNSS

Why in News ? Union Home Minister Amit Shah has recently said that undertrials who have spent more than a third of the maximum prescribed sentence for the crime they are accused of committing should be released before Constitution Day (November 26).

What Section 479 of the BNSS says ?

- Section 479 of the BNSS lays down the “Maximum period for which [an] undertrial prisoner can be detained”.
- It states that a prisoner who is not accused of offences punishable with death or life imprisonment shall be released on bail if she has “undergone detention for a period extending up to **one-half of the maximum period of imprisonment specified for that offence under that law**”.

- This same standard was provided under the previously applicable **Section 436A** of the **Code of Criminal Procedure, 1973 (CrPC)**.
- But the BNSS has also relaxed the standard further in cases concerning “**first-time offenders**” — requiring such accused persons to be released on bail after they have spent one-third of the maximum possible sentence in prison.
- It states, “Provided that where such person is a first-time offender (who has never been convicted of any offence in the past) he shall be released on bond by the Court, if he has undergone detention for the period extending up to one-third of the maximum period of imprisonment specified for such offence under that law”.
- The provision, however, clarifies that an accused “**shall not be released on bail** by the Court” if there are pending investigations or trials into more than one offence or in “multiple cases” relating to the same person.

Top court’s interpretation:

- In August, a Bench of Justices Hima Kohli and Sandeep Mehta held hearings on the issues faced by undertrial prisoners in the case **In re: Inhuman conditions in 1382 prisons**.
- The case began as a PIL after former **Chief Justice of India R C Lahoti** sent a letter to the court, highlighting issues such as **overcrowding in prisons**, unnatural deaths of prisoners, and the inadequacy of trained prison staff. **Since 2013**, the court has been hearing issues relating to prisons in this case.
- **Section 479 of the BNSS** “needs to be implemented at the earliest and it will help in addressing overcrowding in prisons”.
- Noting that the new provision was “more beneficial”, the court on August 23 ordered that **Section 479** would apply “**retrospectively**” to cases that were registered against first-time offenders even before the BNSS came into effect on **July 1, 2024**.
- **Section 479** already places a duty on the superintendent of the jail to send an application to the court for releasing a person on bail under this section once the

relevant time period — **either half or one-third of the maximum sentence** — has elapsed.

- On November 19, the SC once again ordered all jail superintendents to **identify all undertrial prisoners, especially women**, who would be entitled to bail **under Section 479 of the BNSS** so that courts can consider granting bail in these cases.

India's undertrial prisoners:

- According to the National Crime Records Bureau's report Prison Statistics India 2022 (published in December 2023), of the 5,73,220 people incarcerated in Indian prisons, **4,34,302 are undertrials** against whom cases are still pending. That amounts to nearly **75.8% of all prisoners in India**.
- **Of the 23,772 women in prisons, 18,146 (76.33%)** are undertrials, the report notes.
- The report does not record how many **undertrial prisoners were first-time offenders**. As of December 31, 2022, around **8.6% of all undertrial prisoners** had been in prison for more than three years.

'Lackadaisical Approach in Implementing Arms Act' : Supreme Court forms Committee in each State & UT To Curb Illegal Gun Menace.

The Supreme Court has recently constituted a Committee in each State as well as Union Territories after it found that the proliferation of factories, and workshops producing unlicensed arms, which are outside the regulatory framework, resulted in crimes against the Society as well as against the State. It also found that there is a "lackadaisical approach" in the implementation of the Arms Act.

- The **Indian Arms Act of 1878** was a law enacted during British rule in India to regulate the possession and use of arms and ammunition. It was primarily aimed at disarming the Indian population and ensuring control over weapons by the colonial authorities.

Key Features of the Indian Arms Act, 1878:

Licensing Requirement:

- Individuals were required to obtain a license to possess, carry, or use firearms and ammunition.
- Without a valid license, owning or transferring weapons was prohibited.

Restricted Categories:

- Certain arms and ammunition were classified as prohibited and could not be possessed even with a license.
- Manufacturing, selling, or repairing firearms without authorization was also restricted.

Exemptions for Europeans:

- The Act provided exemptions for Europeans living in India, reflecting racial discrimination. Indians faced stringent restrictions, while Europeans often possessed arms freely.

Punitive Measures:

- Violations of the Act could lead to fines, imprisonment, or confiscation of arms and ammunition.

Objective:

- The law was designed to suppress potential uprisings and prevent Indians from having access to arms that could be used against the British colonial administration.

The Arms Act, 1959:

- The Arms Act, 1959, replaced the colonial Indian Arms Act, 1878, and was enacted to regulate the acquisition, possession, manufacture, sale, transportation, import, and export of arms and ammunition in independent India.
- Its primary objective is to ensure public safety and prevent the misuse of firearms while allowing legitimate use for **self-defense, sports, or other purposes under strict regulations.**

The Arms (Amendment) Act, 2019:

- The Arms (Amendment) Act, 2019 was introduced to strengthen regulations on arms and ammunition in India, ensuring better public safety and curbing misuse of firearms. It amended key provisions of the Arms Act, 1959, to address contemporary security challenges and streamline the licensing and usage of firearms.

Key Features of the Arms (Amendment) Act, 2019:

- **Restriction on Number of Firearms:**
- Previously, an individual could own up to three firearms.
- The amendment reduced this limit to **two firearms.**
- Owners with more **than two firearms** must deposit the additional ones with the authorities.

Enhanced Punishments:

Illegal Possession: The penalty for possessing an unlicensed firearm was increased to a minimum of 7 years (extendable to life imprisonment) along with a fine.

Use of Prohibited Arms: Using prohibited arms in a public gathering or other illegal activities can lead to life imprisonment or even the death penalty if it results in death.

Stringent Punishments for Manufacturing and Smuggling:

- Unauthorized manufacturing, smuggling, or dealing in prohibited arms now attracts a minimum punishment of 7 years, extendable to life imprisonment.

Enhanced Licensing Regulations:

- The amendment introduced stricter checks and verification for issuing and renewing licenses to ensure that arms do not fall into the wrong hands.
- Licenses must be renewed every five years.

Prohibition on Certain Firearms:

- The use or possession of firearms that can be modified to fire in an automatic mode was strictly prohibited.

Special Provisions for Sportspeople:

- Professional shooters can own up to 12 firearms, including those required for training or participating in competitions.
- This provision was introduced to support athletes without compromising public safety.

Tracking and Regulation:

- A new system for tracking firearms from production to sale and use was introduced to curb illegal trade and misuse.

Stricter Rules on Celebratory Gunfire:

- Firing in celebratory events such as weddings, which causes injury or death, now attracts a penalty of up to 2 years imprisonment or a fine of up to **Rs1 lakh, or both**.

Article 14 cannot be used to perpetuate illegality against someone:

Supreme Court

Noting that Article 14 of the Constitution could not be used to perpetuate illegality, the Supreme Court recently held that a person could not claim equal treatment based on an illegal benefit conferred to someone else.

The order was recently passed by the SC on a petition seeking compassionate appointment.

What was the petition ?

- The petitioner contended that his father died in 1997, when he was a seven-year-old boy.
- He applied for compassionate appointment in 2008 after attaining majority. However, the Haryana Government rejected the claim citing the **1999 policy** that introduced a three-year limit after an employee's death.
- He argued that many similarly-situated persons were given compassionate appointments, despite their time-barred applications

What the court said ?

- The Bench rejected this argument and held that if a wrong benefit had been conferred or some benefit contrary to the scheme had been granted, it would not bestow a right upon the others to claim it as a right of equality by giving a reference to **Article 14 of the Constitution of India**.
- The court contended that the very idea of equality enshrined in **Article 14** was a concept **clothed in positivity based on law**. It could be invoked to enforce a claim having sanctity of law.
- The top court of the country observed that passing of an **illegal order wrongfully** conferring some right or claim on someone **did not entitle a similar claim to be put forth** before a court. Besides, a court was not bound to accept such plea, noted the Bench, adding that it could not an authority to repeat that illegality over again.
- If such claims were entertained and directions issued, that would not only be against the tenets of justice, but negate its ethos resulting in the **law being a causality culminating in anarchy and lawlessness**.
- The **Apex Court** could neither ignore the law, **nor overlook the same** to confer a right or a claim that did not have legal sanction. Equity could not be extended. It was too negative to confer a benefit or advantage without any legal basis or justification, ruled the Bench.

Article 14 of the Constitution of India: Right to Equality:

- Article 14 guarantees the fundamental right to equality before the law and equal protection of the laws to all individuals within the territory of India.
- It forms the cornerstone of the Indian legal system, ensuring fairness and justice.

Key Components of Article 14:

- **Equality Before Law:**
 - Derived from the English Common Law.
 - It ensures that no person, regardless of rank or status, is above the law.
 - Everyone is treated equally in the eyes of the law.
- **Equal Protection of Laws:**
 - Borrowed from the American Constitution.
 - It mandates that individuals in similar circumstances be treated equally.
 - The State can make reasonable classifications for differential treatment, but it must be non-arbitrary and just.

Important Judicial Interpretations:**State of West Bengal v. Anwar Ali Sarkar (1952):**

- The Supreme Court struck down arbitrary classification in procedural laws, emphasizing fairness.

Maneka Gandhi v. Union of India (1978):

- Article 14 was interpreted as ensuring equality in both substantive law and procedural law.
- Linked with Articles 19 and 21, broadening its scope.

E.P. Royappa v. State of Tamil Nadu (1974):

- Introduced the concept of arbitrariness as a violation of Article 14, stating that the State must act in a fair and non-arbitrary manner.

Indra Sawhney v. Union of India (1992):

Upheld reservations for backward classes but emphasized reasonable classification.

Matrimonial Dispute is Not Moral Turpitude; Cannot be used to Block Spouses' Right to Education: Bombay High Court

Why in News? The petitioner, a medical officer, had applied for an NOC to participate in the All India Ayush Post Graduate Entrance Test (AIAPGET) 2024. Initially, the Deputy Director of Health Services granted the NOC, recognizing his eligibility. However, the health department revoked this approval in September 2024 after discovering an active criminal case against him, citing **Clause 4.5 of a Government Resolution (G.R.) dated July 19, 2023**. This clause disqualifies government employees with criminal cases from pursuing further education.

The criminal case against the petitioner, filed by his wife, included charges **under Sections 498A (cruelty) and 494 (bigamy) of the Indian Penal Code**, as well as sections of the SC/ST Prevention of Atrocities Act. Represented by Advocate G.J. Karne, the petitioner argued that his educational rights, **derived from the right to life under Article 21** of the Indian Constitution, should not be impeded due to a personal dispute unrelated to his professional conduct or moral standing.

Key Legal Issues:

- The primary legal issue was whether Clause 4.5 of the Government Resolution, barring individuals with pending criminal cases from pursuing higher studies, was applicable in this instance. The petitioner argued that the clause was being unfairly applied, as his criminal case stemmed from a personal, matrimonial dispute rather than **an action reflecting poor moral character**.
- Countering the petitioner's arguments, Advocate A.M. Phule, representing the State, argued that the NOC was improperly obtained, as the petitioner had not disclosed the pending case. Phule cited a previous case, **Kedar Pawar vs. State of Maharashtra**, in which the court allowed the withdrawal of NOCs when individuals had withheld relevant information.

Court's Observations and Ruling:

"Right to education is implicit in the right to life and personal liberty guaranteed and flowing from **Article 21 of the Constitution**... This right cannot be denied or taken away merely due to the pendency of any departmental proceedings or criminal proceedings against the employee."

- The court held that the criminal case against the petitioner, arising from a personal, matrimonial dispute, did not constitute "moral turpitude."
- In the court's view, such cases should not prevent an individual from pursuing educational or career advancement.
- The judgment referenced a similar precedent in **Kailas Pawar vs. State of Maharashtra**, where it was emphasized that government policies restricting fundamental rights must be applied cautiously, especially when involving personal matters.

What is Moral Turpitude?

"Moral Turpitude" is a legal and ethical concept that describes actions that are against the moral standards of society. It includes crimes that call into question the moral character of a person and are considered reprehensible or invalid by society.

Key Features:

Illegality and Immorality: Crimes involving moral turpitude are usually fraud, dishonesty, violence or other immoral activities that are aimed at personal gain.

Legal Implications: A crime of moral turpitude can affect the eligibility and credibility of the guilty person in the legal field, especially in matters of appointment, appointment to public office and privileges.

References in Indian Penal Code: Provisions related to moral turpitude are mentioned in some sections of the IPC, which ensure that individuals can be held accountable for serious and morally blameworthy crimes.

About Section 498-A IPC: Cruelty by Husband or Relatives:

Section 498-A deals with cruelty inflicted by a husband or his relatives on the wife.

The term "cruelty" includes:

- Any willful conduct likely to drive the woman to suicide or cause grave injury or danger to her life, limb, or health (mental or physical).
- Harassment of the woman with a view to coercing her or her relatives to meet any unlawful demand for property, valuable security, or dowry.

Punishment: Punishable by imprisonment of **up to three years** and may also include a **fine**.

Nature of Offense: This is a **cognizable, non-bailable**, and non-compoundable offense, meaning the police can arrest without a warrant, bail is not a right, and it cannot be settled outside of court.

About Section 494 IPC: Marrying Again During Lifetime of Husband or Wife (Bigamy):

Section 494 addresses the crime of bigamy, where a person marries another while their previous spouse is still living and the marriage is not legally dissolved.

Conditions:

This offense applies only if a person has a living spouse from a **legally valid marriage at the time of the second marriage**.

Certain exceptions apply, such as if the previous spouse has been absent for seven years without being heard from, in which case, after fulfilling legal procedures, a second marriage may be considered lawful.

Punishment: Punishable by imprisonment of up to **seven years** and may also include a **fine**.

Nature of Offense: This is a **non-cognizable and bailable offense**, meaning police require a warrant for arrest, and the accused can be released on bail.

The Ancient Monuments and Archaeological Sites and Remains Act, 1958 (AMASR Act)

Why in News? The term was recently used in Shambhal Mosque dispute.

- The Ancient Monuments and Archaeological Sites and Remains Act, 1958 (AMASR Act) is a key piece of **legislation in India** that provides for the preservation and protection of ancient monuments, archaeological sites, and remains of national importance.

Objective:

The Act aims to:

- Protect and regulate access to monuments and sites of historical, archaeological, or artistic importance.
- Prevent unauthorized excavation or destruction of these sites.
- **Provide for their proper management** and maintenance.

Key Provisions:

Ancient Monuments and Archaeological Sites:

- Defines "ancient monuments" as structures or remains of historical, archaeological, or artistic interest that are more than **100 years** old.
- Includes temples, tombs, inscriptions, caves, and rock-cut structures.

Declaration of National Importance:

- The Central Government can declare any site or monument as one of "national importance" and publish the **notification in the Official Gazette**.

Prohibited Areas:

- A "prohibited area" refers to a **zone of 100** meters around a protected monument or site where construction and excavation are restricted.

- A "regulated area" extends up to 200 meters beyond the prohibited area, where limited construction may be permitted under conditions.

Protection and Maintenance:

- **Archaeological Survey of India (ASI)** is tasked with the maintenance, protection, and regulation of declared monuments and sites.
- Unauthorized activities, including excavation or construction within prohibited and regulated areas, are punishable offenses.

Excavations:

- **No person, except authorized personnel, can undertake excavation** at protected sites.
- The Central Government can conduct or authorize archaeological excavations.
- **Penalties:**
- **Violations of the Act** can result in penalties, including fines or imprisonment, for:
 - Damaging a protected monument.
 - **Unauthorized construction or excavation.**
 - Breach of the prescribed rules.

Amendments and Additions:

- **AMASR (Amendment and Validation) Act, 2010:**
- Introduced stricter regulations for construction near monuments.
- **Established a National Monuments Authority (NMA)** to oversee and regulate construction activities in prohibited and regulated areas.

Recent Developments:

- There has been debate over relaxing the **100-meter and 200-meter rules** to balance heritage conservation with urban development needs.

Significance:

- **Protects India's rich cultural and historical heritage.**
- **Facilitates scientific research,** tourism, and education.
- Balances heritage preservation with urban development.