



PRIVACY JUDGEMENT & ISSUES

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MAHANADI DISPUTE

PRIVACY & WOMEN'S RIGHTS

HUMAN TRAFFICKING

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Cultural Capital, Reference Group, and Social Mobility in India

GS 1

- Salient features of Indian society
- Social empowerment

GS 3

- Inclusive growth

Intro

- There are **various factors (both enabling and hindering), responsible for the social mobility of individuals coming from different social and economic backgrounds** in India
- In India research on social mobility began much later, particularly **in the early 1950s under the ambit of caste studies initiated by Srinivas (1952)**, with his study on the Coorgs of South India.
- This caste model based on the structural–functional perspective remained the dominant one in subsequent studies conducted by other scholars, until the **attempt of Beteille (1966) to change the paradigm from caste to class**, and efforts by other Marxist scholars to study social mobility from the dialectical–historical perspective based on a class model.
- However, **both these models put emphasis on “collective mobility” rather than “individual mobility,”** and studies on the latter gained momentum especially after the liberalisation of the Indian economy in the early 1990s, during which period numerous career opportunities became available for individuals.

Cultural Capital

- Cultural capital is a **form of power beyond the economic form**, and is **exercised through different non-economic goods and services such as information, articulation, education, and aesthetics.**
- It helps to understand the existence of power and domination within society, through cultural stratification, and to argue that success can be better explained by the inheritance of cultural capital from the family, rather than through individual talent.
- Cultural capital exists in three different forms: embodied, objectified and institutional.

1. Embodied cultural capital

- In its embodied form, cultural capital is the ensemble of all the cultivated dispositions which are internalised by the **individual through socialisation beginning in early childhood**.
- This requires “pedagogical action,” that is, investment of time by parents, other family members, relatives, peer groups and sometimes hired professionals, in order to sensitise the child to cultural distinctions.

2. Objectified cultural capital

- Objects like **books, as well as different aesthetic, electronic, and scientific instruments** that require specialised skills on the part of the individual are examples of the objectified form of cultural capital.

3. Institutional cultural capital

- Institutional cultural capital refers to the **quality of education received, and credentials acquired within the educational systems that the individual has been associated with**.

Caste and social mobility in India

- Understanding social mobility in the Indian context is a challenge, since the **social structure in India has evolved with features of both caste and class within its fold**.
- The class-like characteristics found in the caste system and vice versa, make the phenomenon more complex.
- There is **lack of cultural capital, in all its forms, in the cases of the Scheduled Castes (SCs) and Scheduled Tribes (STs), as well as rural residents, restricts their upward intergenerational social mobility**, and instead paves the way for downward social mobility in the competitive market situation
- Abundant cultural capital comes from within the family, if an individual belongs to a relatively higher caste, upper class, urban residence, where members possess better educational backgrounds.
- Thus, **access to adequate cultural capital enables the reproduction of intergenerational social mobility**. On the other hand, individuals with a **lower caste and/or class status, rural upbringing, poor educational background, and experiencing relative poverty, have to struggle at every step in their search for better career prospects in order to achieve upward social mobility**.
- **Individuals possessing greater cultural capital also get immediate access to inspirational membership reference groups since they can access role models**

within the family, neighbourhood and peer groups who help shape their career aspirations right from childhood.

- On the other hand, those individuals without any or with very little access to any kind of cultural capital depend upon the non-membership reference groups for inspiration and motivation while identifying role models, and undergo the painful process of anticipatory socialisation.
- Similarly, a **rural background acts as the most significant handicap to substantial upward social mobility** for students, when competing with their urban counterparts.
- Additionally, the dearth of good, well-informed, and inspirational membership reference groups in the rural areas, as opposed to urban areas also adds to their woes

Reference groups

- It helps one belonging to such a family as parents play positive roles, often modifying their work–life balance to suit the needs of the children, and by providing support in shaping their careers.
- Aspirations are built up from the very beginning with the intervention of parents, as well as the guidance of other family members. Sometimes, even established family tradition in terms of occupation across generations helps children in pursuing such career goals.
- Thus, the **lack of achievement on the part of the past generations results in a failure to engender a better environment**, and limits the potential of the future generations, thereby perpetuating disadvantages in the process of achieving upward social mobility in terms of profession.

Connecting the dots

- **The social empowerment of disadvantaged sections cannot be done without building comprehensive cultural capital of the sections. Examine.**

Privacy judgment and issues

GS 2

- **Indian Constitution – Historical evolution**
- **Government policies**

Constituent Assembly position on Privacy

- The Constituent Assembly in its initial drafts had considered making the right to privacy a fundamental right. However, after extensive discussion, a conscious decision was taken not to do so.

K M Munshi view

- On 17 March 1947, **K M Munshi** submitted **Draft articles on the fundamental rights and duties of citizens to the Sub-committee on fundamental rights.**
- Among the **rights of freedom proposed in clause 5 were the following...** (f) **the right to the inviolability of his home**(g) **the right to the secrecy of his correspondence,** (h) **the right to maintain his person secure by the law of the Union from exploitation in any manner contrary to law or public authority**
- This discussion would indicate that **there was a debate during the course of the drafting of the Constitution on the proposal to guarantee to every citizen the right to secrecy of correspondence** in clause 9(d) and the protection to be secure against unreasonable searches and seizures in their persons houses, papers and assets.

Sir Alladi Krishnaswamy Iyer view

- The objection to clause 9(d) was set out in the note of **dissent of Sir Alladi Krishnaswamy Iyer** and it was his **view that the guarantee of secrecy of correspondence may lead to every private correspondence becoming a state paper**
- The **clause protecting the secrecy of correspondence was thus dropped on the ground that it would constitute a serious impediment in prosecutions while the protection against unreasonable searches and seizures was deleted on the ground that there were provisions in the Code of Criminal Procedure, 1898 covering the area.**
- The **debates of the Constituent Assembly indicate that the proposed inclusion (which was eventually dropped) was in two specific areas namely correspondence and searches and seizures.**

- From this, it **cannot be concluded that the Constituent Assembly had expressly resolved to reject the notion of the right to privacy** as an integral element of the liberty and freedoms guaranteed by the fundamental rights.

M P Sharma v Satish Chandra, District Magistrate, Delhi, 1954

- An **eight-judge bench of the Supreme Court had clearly come to the conclusion that the right to privacy is not a fundamental right.**
- At that time, **most of the members of the Constituent Assembly were also around,** and there does **not appear to have been any significant dissent** with this decision.
- Thus, it appears that the **clear and conscious decision of the Constitution makers and all the Supreme Court judges (since that bench comprised all of them) was that privacy was not a fundamental right**

What Is Privacy?

R Rajagopal v State of Tamil Nadu

- Supreme Court had **given a broad definition of privacy and its domain** where it stated that: **right to privacy is implicit in the right to life and liberty guaranteed to the citizens of this country by Article 21.**
- It is a **“right to be left alone.”**

Privacy vs Information right

- **appreciated that the right to privacy has a certain tension with Article 19 (1) (a)** of the Constitution which guarantees that **“All citizens shall have the right to freedom of speech and expression.”**
- **What can be published in matters relating to citizens in the media is the same as information from public records which can be given in the RTI.**
- The **reasonable restrictions on the exercise of this are given in Article 19 (2) and can only be “in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence.”**

Which of these will apply to privacy?

- In most cases restrictions in the interest of **“decency and morality”** would have to be invoked for **restricting publication or information in RTI in matters relating to privacy**

- **RTI Act also bars** such information from being given **under Section 8 (1) (j) which exempts information which relates to personal information**, the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information: provided that the **information, which cannot be denied to the Parliament or a state legislature, shall not be denied to any person.**

Parliament view

- **Parliament** had laid down a **simple acid test to determine which personal information should be denied under the RTI.**
- If such information would assault **“decency or morality”** it would violate privacy and should not be given to Parliament also.
- Thus, the **R Rajagopal judgment and the RTI Act both are in consonance with Article 19 (2) of the Constitution.**
- **It would have been good if the Supreme Court had reiterated this or expanded it.**

Misinterpretation of RTI

- **In some instances when such information has been disclosed it has led to the exposure of corruption.** One of the objectives of the RTI (stated in its preamble) is to curb corruption.
- Because of the **varied positions taken by the public information officers (PIOs), information commissioners (ICs) and courts,** the law is grossly misinterpreted.
- In fact, **many state governments have issued directives to all the PIOs not to disclose information about public servants.**
- With this **decision of declaring privacy as a fundamental right without making any attempt to judicially define it, many wrong deeds will thus get protection.**
- We must also understand that the **same constraints will apply to the freedom to publish.** If giving information about some matters is intrusion into privacy, then publication of it also cannot be permitted.
- All personal information does not constitute privacy. **One of the most favourite exemptions to deny information is Section 8 (1) (j).**
- In most cases the legal requirement of deciding whether it would be denied to Parliament is not applied. The right to privacy ends where the RTI and the right to publish starts.
- It is **unfortunate that the nine-member bench of the Supreme Court decided to proclaim privacy as a fundamental right, but did not take the responsibility of defining its domain.**

- The **PIOs, ICs and judges are now left to do this job on a “case to case” basis.** There should be an attempt to make law as definitive as possible.
- It is evident that **matters relating to a person’s body, home, sexual preferences, religious or political beliefs, should generally be considered as issues relating to privacy.** These could be justified by **Article 19 (2)** which permits reasonable restrictions on the basis of “decency or morality.”
- **However, with respect to a person’s body there have been some divergent opinions.** The most easily identifiable part of a person’s body is the face. **Can we now argue that taking a person’s photo and disclosing it or publishing it is an invasion of privacy?**

Aadhar and Privacy

- One of the primary causes for this entire controversy regarding privacy has been the Aadhaar card and the requirement for linking it with all other interactions with government.
- **The personal details taken for Aadhaar, which may not be given in many other government records, are the biometric identification in terms of fingerprints and iris scans.**
- Everyone going out of the country (and a large percentage of readers of this article) give their biometric identity at the emigration counter.
- Universal requirement of the Aadhaar card is likely to reduce *benami* transactions and ghost names of beneficiaries.
- We have a number of people having multiple PAN cards, floating shell companies, and taking illegal benefit of various welfare schemes and so on.
- A large number of private companies are registered at the residences of public servants. These actually snatch morsels from the mouths of the disadvantaged.
- Calling the house a castle and saying privacy is an essential part for a dignified life sounds really good. If this were possible without reducing the scope of the RTI and the freedom to publish it would be fine. There is a possibility that the right to privacy will be at the cost of the RTI.
- There are, perhaps, **two competing issues in thinking of the desirability of Aadhaar: concern for privacy, and the need to curb corruption and leakages in welfare schemes.**
- **Going by the talisman of Gandhi, one should consider which step is likely to benefit the poor.**

Conclusion

- Appears that the Supreme Court has, in claiming to interpret the Constitution, read it to claim that a concept discarded by the Constituent Assembly was meant to be included.
- In this decision, the Supreme Court should have defined privacy and its contours.
- When deciding on the definition of privacy, Article 19 (2) must be kept in mind and the RTI and the freedom to publish must not be curbed beyond what the Constitution permits.
- The greater good is likely to be served by having an Aadhaar card.

Connecting the dots

- **Critically discuss the privacy judgement of the Supreme Court. How could the lacunae be addressed?**
- **Discuss the view of Constituent Assembly on Right to Privacy. Why did not they explicitly include it in the constitution itself?**
- **How can right to privacy be misused to hide corruption? Examine the ethical issues involved.**
- **How should conflict between right to information and right to privacy be sorted out? Which right should be given precedence?**

Privacy and Women's Rights

GS 2

- Indian Constitution- historical underpinnings, evolution, features, amendments, significant provisions and basic structure
- Government policies and interventions for development in various sectors and issues arising out of their design and implementation.

Intro

- In *K Puttaswamy v Union of India* (2017), a nine-judge bench of the Supreme Court held that the right to privacy is a fundamental right and that, at its core, it means the “right to be let alone.”

Contours of privacy

- As conceived in Anglo–Saxon jurisprudence, the right to privacy initially focused on protecting “private” spaces, such as the home, from state interference on the belief that “a man’s home is his castle” and he exercises sovereign power within that space.
- Subsequently, court decisions expanded this right to protect intimate relationships, such as the family and marriage, from state intervention.
- More recently, the right to privacy has been understood as protecting individual autonomy by preserving a person’s bodily integrity, as well as her autonomous decision-making capacity.

"Informed consent" over Privacy

- In this conception, the right shields from interference a person’s fundamental personal *decisions* and *information*).
- Such protection enables a person to determine “one’s own concept of existence, of meaning of the universe, and of the mystery of human life” and facilitates the exercise of liberty “free of social expectations ... enableing individuals to preserve their beliefs, thoughts, expressions, ideas, ideologies, preferences and choices against societal demands of homogeneity

Feminism and privacy

- Feminist legal theory has had an ambivalent relationship with the right to privacy.

1. **Privacy defined through patriarchal notions**

- Gender structures our imagination of what is private and what is not. For example, sexual relations are generally considered to be private matters.
- **Sex outside marriage, such as in adultery or sex work, is denied the same level of privacy protection as sex within marriage.**
- After *Suresh Kumar Koushal v Naz Foundation* 2014, homosexual behaviour is also within the purview of public regulation. Taken together, these examples indicate that the understanding of privacy in the context of sexual activities is based on sexual (hetero)normativity.

2. **Spatial privacy will exacerbate discrimination**

- Feminist scholarship has debunked the notion that there is any natural distinction between the realms of the public and the private.
- Notions of privacy that shield certain spaces (such as the home) and relationships (such as marriage) from state scrutiny can leave persons within these spaces and relations vulnerable to discrimination, coercion, and abuse.
- Conceptions of the home as a place of “sanctuary” and “repose” obliterate lived experiences of women for whom these spaces are often sites of oppression and violence.

3. **Spatial privacy supposes privacy for all which is practically not the case**

- Spatial notions of privacy also presuppose that everyone has access to private spaces. This may not be the case for many due to economic inability, or for same-sex, inter-caste, or interfaith couples.
- In these situations, the private space of the home can be stifling in its control, whereas the public sphere might be a place of relative anonymity and therefore, of relative autonomy.

4. **Decisional and Informational privacy help women control their own lives**

- On the other hand, the move away from spatial and relational framings of the right to privacy, to decisional and informational privacy, has opened up new vistas for women’s rights and empowerment.
- By grounding the right to privacy in individual autonomy and control over vital aspects of one’s life, this right empowers women to question social and legal structures that limit their ability to exercise control over their bodies, minds, and lives.

- By and large, the Puttaswamy judgment embraces this notion that privacy is grounded in **individual self-determination**.

5. **Scope for affirmative action for women opened further**

- If the right to privacy exists to protect the individual's control over vital decisions affecting their lives, then non-intervention might not be sufficient to achieve this end.
- There may be need for affirmative action by the state **to enable a person to effectively exercise autonomy in making fundamental personal decisions**.

6. **Surveillance of women not addressed**

- Surveillance as a technique of power and a method of social control is enacted daily upon women's bodies. Women are subject to constant scrutiny of their bodies, actions, and choices. Such surveillance operates through peer policing, and results in judgment, shaming, ridicule, exclusion, and violence, or threat thereof, for nonconformity with gender norms
- By raising the costs of gender nonconformity, social surveillance pushes women towards self-censorship and adherence to gender norms.
- This inhibits self-determination and self-development, the ideas that lie at the heart of the right to privacy.
- In addition to the above, **providing public officials control over a wealth of information about an individual can render such persons vulnerable to active coercion**, through acts like stalking or extortion.
- In a social context where society judges women for their sexual and reproductive choices, mandatory disclosure of such information may **not only constrain women in making such choices, but also in accessing safe and legal reproductive health services**.
- The Puttaswamy judgment does not directly address the constitutionality of surveillance mechanisms.
- The plurality judgment finds privacy to be an "intrinsic recognition of heterogeneity, of the right of the individual to be different and to stand against the tide of conformity."

7. **Legal regulation of gender**

- Socially constructed and enforced gender norms limit individual self-determination and can box people into assigned sexual and gender identities. Such norms also operate through and within the law.

- **Decisional privacy that seeks to protect the “right of the individual to be different and to stand against the tide of conformity” can therefore open up to constitutional scrutiny such laws, practices and interpretations.**
- If the state can show that the infringement is a valid limitation upon the right, the law will survive nonetheless. The right to privacy simply enables the ability to question these laws and seek justification from the state for their enactment.

Conclusion

- The spirit of the Puttaswamy judgment is antithetical to a paternalistic state. However, the extent to which it can have an impact on the extant constitutional culture depends on how subsequent courts read the judgment and translate its spirit into concrete constitutional protections.
- Of particular concern is the fact that the judgment speaks in multiple voices on what amounts to permissible limitations on the right to privacy.
- Determining what constitutes the rationale of the court on this issue will shape the extent of protection offered by this right.

Connecting the dots

- **The privacy judgment unequivocally has a bearing on the rights of women. Critically examine.**

Mahanadi Dispute

GS 2

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

Intro

- The construction of the Kelo dam on Mahanadi was approved in 2009.
- The problem came about because a joint control board was not formed as per an interstate agreement between Odisha and MP in 1983, when Chhattisgarh was a part of MP.

Issues

1. Feasibility of Hirakud dam will be impacted

- The construction of dams and barrages in the upper catchment area of the Mahanadi river gives rise to the looming fear that the flow of water into the Hirakud dam will slow down and, consequently, a massive spat between the states of Odisha and Chhattisgarh will ensue, with all its political overtones.

2. Potential ecological imbalance

- The ecological balance of the river has been gravely affected by the rapid industrialisation undertaken by both states.

3. Dependence of people

- On the one hand, the Mahanadi is the means of survival for the people of Odisha. The government will not be able to cater to the developmental needs of the state if the flow of water decreases.
- On the other hand, Chhattisgarh, which speeded up its developmental work after its separation from Madhya Pradesh (MP), has a huge water requirement. Both states are now at loggerheads over their right to the Mahanadi water.

4. Impact of industrialisation

- Both states have misused the water of the Mahanadi to a considerable extent by supporting extractive industries.

- The growing industrial civilisation fed by the waters of the Mahanadi is at direct war with the ecological civilisation of the basin.
- While the river's water yield is steadily diminishing, the allocation of water to industrial houses and urban centres is increasing.
- The unregulated extraction of water from the Hirakud dam by certain industries has validated farmers' fears; farmers' organisations are spearheading a growing and vocal movement against the supply of dam water to industries.

Decreasing flow of water due to change in rainfall patterns

- The flow of water in the Mahanadi river during the summer is decreasing at an alarming rate. The irrigation area fed by this river is gradually becoming smaller, as industries are increasingly drawing its water.
- **IIT Madras and IIT Bombay study** showed that major surplus basins, such as the Mahanadi, Godavari, Brahmani, and West Flow River-I, are currently witnessing a significant decrease in rainfall.
- If this trend continues, there could be a considerable shortfall in the Mahanadi's flow over the next few decades.
- "Climate change altered the rainfall pattern in the Mahanadi basin"
- It also raise concerns about water-basin interlinking, as the so-called surplus basins may not last over the years.
- A 2012 study conducted by the **Forum for Policy Dialogue on Water Conflicts in India** discussed the over-exploitation of the so-called surplus river.

Chhattisgarh's Concerns

- About 54% of the geographical area of the state is drained through the Mahanadi, which is the "lifeline" of Chhattisgarh
- Chhattisgarh is host to 86% of the water in the Mahanadi up to the Hirakud dam, but it utilises only 25% of the water
- Chhattisgarh proposed to check floodwater—and not the natural flow of water—that flows into the sea without being utilised. The state government built 13 barrages across the Mahanadi river.
- It was stated that all these projects have the potential to irrigate less than 2,000 hectares and fall under the category of minor irrigation projects; thus, they do not require approval from the Central Water Commission (CWC).
- The seven irrigation projects undertaken in the upper catchment areas of the Mahanadi river and the barrage on its tributary

Odisha's Concerns

- The Hirakud dam in Odisha is often considered a sign of India's post-independence development. Located in Sambalpur, it is the **only source of irrigation for farmers in large parts of western Odisha**.
- It is a multipurpose project; the dam also generates hydel power and provides water to industries.
- Constructing a series of barrages on the upper part of the Mahanadi is bound to affect the water flow in the Mahanadi system and could trigger drought and devastation in Odisha.
- The Mahanadi is Odisha's "lifeline," as 65% of the state's population depends on it

Way forward

1. Cooperative governance of Mahanadi basin

- The states should prepare a cooperative plan to meet irrigation demands and to drought-proof the river basin.
- Instead of arguing about water utilisation, both governments should discuss the setting up of a Mahanadi basin governance plan with mutually agreed upon terms and conditions.
- The haphazard planning of water extraction will increase drought, farmer suicides, aggravate flood devastations, and increase disasters in the Bay of Bengal
- Joint management of the river under a board or commission might even allow Odisha to find better water storage facilities in Chhattisgarh and, consequently, control the downstream flooding in the monsoon season and increase irrigation potential in the dry season.
- At the moment, both the states are competing with each other and are treating the Mahanadi as a tradable commodity and not as an ecological entity.

2. Make Mahanadi a comprehensive waterway

- The Mahanadi river can also be an addition to the river projects undertaken by the union shipping ministry for the navigation of small ships.
- If the Mahanadi becomes a waterway, it will facilitate mineral transport and contribute immensely to making Paradip a bigger port.
- Therefore, the Odisha and Chhattisgarh governments should join hands to resolve the conflict in a peaceful manner and make the Mahanadi a river of wealth for both states and not a "river of sorrow".

3. Empower tribunal over courts

- Proper adjudication of the dispute also necessitates that the state governments approach the central government to set up a tribunal whose decisions will be final and binding on the parties.
- **Arbitration and negotiation** should be considered as methods of conflict resolution.
- A system of cooperative mechanisms or agreements that allows states to manage the river must be established without going through court procedures, which is dilatory and expensive. Courts are generally not well-equipped to decide on extremely complicated problems involving hydrology, economics, engineering, and law.

4. **People centred river network**

- A multi-stakeholder forum around the Hirakud dam is urgently required, which can facilitate communication among people and help explore new pathways to a win-win solution, thereby minimising contention
- A river network is of grave necessity, consisting of people and institutions from different fields, like academicians, activists, farmers, river users, students, and other like-minded groups. Academia, civil society, and intelligentsia all need to be involved to develop an interdisciplinary and holistic approach to dealing with water.

Connecting the dots

- **Mahanadi dispute reinvigorated the debate of the strategy needed to resolve the inter-state disputes. Examine what steps can be taken in general.**

Dilemma between Fundamental Right to Protest and State action to control violence

GS 2

- Government policies and interventions for development in various sectors and issues arising out of their design and implementation.

Intro

- In 2016 in *Anita Thakur and Ors v Government of J&K and Ors*, the Supreme Court granted **compensation to the victims of disproportionate police (state) action in quelling an unlawful assembly, for violation of the fundamental right to speech and expression under Article 19** of the Constitution.

Significance

1. Right to protest

- On issues of law, the court traced the **protestors' right to protest from Article 19(1)(a), (b), (c) and (d)**, which respectively confer on Indian citizens the right to freedom of speech, to assemble peaceably and without arms, form associations or unions, and move freely throughout the territory of India.
- All of these freedoms culminate in the expression of grievances through peaceful protest marches

2. Restrictions under the ambit of laws

- However, with **rights come duties and restrictions, and most of these rights are subject to restrictions** of public order, the sovereignty and integrity of India, and security of the state, which have to be reasonable and "in the interests of" the aforementioned grounds of restrictions.
- **Court traced the legal authority that allows the state to enforce these reasonable restrictions to the Indian Penal Code (IPC) 1860 and the Code of Criminal Procedure (CrPC) 1973**, where the substantive and procedural authorisation is stipulated.
- While **Section 141 of the IPC** deals with unlawful assembly, also covering public rallies that turn violent and unruly, **Section 268 of the IPC** defines "public nuisance" as any act "which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right."
- The CrPC authorises an executive magistrate to prohibit the repetition or continuation of public nuisance, and also permits the issuance of directions to

prevent any obstruction, annoyance or injury to any person lawfully employed, or prevent any danger to human life, health or safety, or a disturbance of public tranquility, or a riot, or an affray.

- In other words, force can be used, but only to the extent it is reasonable.
- In the end, the Court, furthering the freedom of speech and expression, has categorically delivered the message that **no amount of public concern can blind the adjudicating authority into allowing the executive to compromise indiscriminately the quality and efficacy of the fundamental rights** granted to the citizens of this nation, which the Court is mandated to protect.
- **While the protestors had triggered the incident by taking the first step in disturbing the peace, the police had also exceeded their mandate and used excessive force even after they had controlled the group of protestors.**
- **Any irresponsible exercise of the power to restrict the rights of free speech and expression by the state would attract legal consequences** and not mere censure.

3. Compensation in case of contravention

- Hence, to the extent that the fundamental right of the petitioners was compromised by police excesses, **in exercise of its power under Article 32 of the Constitution (right to constitutional remedy), the Court awarded compensation** to the petitioners.

Connecting the dots

- **Constitution provides for the protests against the government as a fundamental right under Article 19. But the state often resorts to force to subvert such protests. Examine how this should be sorted out.**

Human Trafficking

GS 2

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

Intro

- Human trafficking can generally be described as a crime that exploits children, women, and men for a number of purposes, including sex and forced labour.
- Trafficked persons usually come from the areas “where economic and social difficulties make migration a popular choice”
- The profits are huge and continuing risks of apprehension are extremely low; and prosecutions for this crime are extremely rare

International Law

- Instruments that have dealt with the issue of human trafficking have their origins in the abolition of slavery. They include provisions within the Slavery Convention (1926) as well as the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956).
- Other tools of international law that include segments against human trafficking are the **Universal Declaration of Human Rights (1948)**, the **United Nations Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949)**, the **International Covenants on Civil and Political Rights (1966)**, and the **Convention on the Elimination of All Forms of Discrimination against Women (1979)**.
- The key instruments of international law on human trafficking are the United Nations Convention against Transnational Organized Crime and its two related protocols: the United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children (also known as the UN Trafficking Protocol or the Palermo Protocol), and the United Nations Protocol against the Smuggling of Migrants by Land, Sea, and Air, which came into force in 2003–04.
- Until the early 1990s, trafficking was primarily regarded as a form of human smuggling and a kind of illegal migration. As a result of the signing of the UN Trafficking Protocol in 2000, “a more detailed, internationally agreed-upon definition of trafficking is available” today.
- The **UN Trafficking Protocol, to which India is a signatory**, is the single-most significant international legal instrument on human trafficking.

Ineffectiveness of the international law

- Although the protocol offers a rather nuanced definition of trafficking, its purposes are rather general: to prevent and combat trafficking, to assist victims and to promote and facilitate cooperation among States.
- Mandatory obligations are few and relate only to criminalization; investigation and prosecution; cooperation between national law enforcement agencies; border controls; and sanctions on commercial carriers.
- In relation to victims, the Protocol contains several important provisions but very little in the way of hard obligation.
- States Parties are enjoined to provide victims with protection, support and remedies but are not required to do so.
- States Parties are encouraged to avoid involuntary repatriation of victims but, once again, are under no legal obligation in this regard.
- However, notwithstanding the shortcomings of the International Law on Trafficking, it may also be pointed out that even countries that are not a party to the UN Convention against Transnational Organized Crime and its two related protocols “are obligated to protect the rights of trafficked persons under provisions in the Universal Declaration of Human Rights, which comprises customary international law”.

Human Trafficking in India

- India is a source, transit and destination country for human trafficking.
- Majority of trafficking in the country occurs internally (interstate or intra-state), and the rest occurs across national borders.
- India is a destination for individuals trafficked from neighbouring countries such as Bangladesh and Nepal, and a transit country for persons being trafficked to West Asia and other countries.
- Moreover, India serves as a source for individuals trafficked to West Asia, North America and Europe.

Laws and mechanism in India to tackle trafficking

- In March 2013, the **Criminal Law (Amendment) Act of 2013** was passed by India. The act amended Section 370 of the Indian Penal Code and included the country’s first definition of human trafficking based on the UN Trafficking Protocol. Till then, there was no comprehensive definition of human trafficking in the Indian law.
- Under **Article 23 of the Constitution**, trafficking in humans is prohibited; however, the article does not define the term.
- Besides this, various other laws provide police officials with the mandate to undertake activities pertaining to prevention of crimes, prosecution of offenders and

protection of the victims of trafficking. The **Immoral Traffic (Prevention) Act 1956** (as amended in 1986) is a special legislation which addresses the issue of sex trafficking.

- It provides wide-ranging powers to special police officers as well as other police officers, working on their behalf for carrying out searches, rescue of victims, and arrest of offenders

Labour trafficking not recognised in India

- The laws in India do not explicitly recognise and punish all forms of labour trafficking to the extent required by the United Nations Trafficking Protocol.
- The definition of human trafficking in the now-amended Section 370 of the Indian Penal Code does not include forced labour.

Way forward

- In May 2016, Maneka Gandhi, the Union Cabinet Minister for Women and Child Development, released a draft of the **Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill** that was referred to as India's first ever anti-human trafficking law. Its primary objectives are to unify existing laws on human trafficking and extend the definition to include labour trafficking as well.
- Further, the bill aims at treating "survivors of trafficking as victims in need of assistance and to make rehabilitation a right for those who are rescued"

Connecting the dots

- **What steps should be taken to reinforce Article 23 of the constitution which seeks to prohibit trafficking?**

Machine Learning and Applications

GS 3

- Robotics

Intro

- **Machine learning** is part of a broader family of machine learning methods based on learning data representations, as opposed to task-specific algorithms. Neural network depicts the complex interlinkages of the different data that is accumulated over time, like in a brain.
- The preprint describes the **careful process of doing away with the false positives and systemic blips before coming up with the true signals**
- **Deep learning** is part of a broader family of machine learning methods based on learning data representations, as opposed to task-specific algorithms. Neural network depicts the complex interlinkages of the different data that is accumulated over time, like in a brain.
- The preprint describes the **careful process of doing away with the false positives and systemic blips before coming up with the true signals**

Applications

1. Automatic machine translation
2. Deciphering complicated scripts
3. Language modelling.
4. Automatic Game Playing - **AlphaGo**.
5. Examination of huge amount of space data to come out with patterns and new discoveries. Recently exoplanets have been discovered using **readings made by NASA's Kepler Space Telescope, which are archived**
6. **Image recognition**
7. **Speech recognition**
8. **Natural language processing.**

How have machines learnt to learn?

- Computer science in the 1990s had laid much of the theoretical background for machine learning namely via developing neural networks. This involved, in essence, reviving a philosophy of designing circuits to simulate the way neurons connect in the brain.

- The brain with its billions neurons and each connected to a 1000 others is now the dominant metaphor for how ML programs are organised.
- Rather than older approaches that tried to program the most 'efficient' way to solve a problem (like what's the best sequence of moves to checkmate) Machine Learning systems are increasingly organised around letting the systems figure out the rules from scratch.
- Circuits achieve their goals — differentiating cats from dogs and recognising signatures on cheques—by repetitively blitzing through 'rewards' and 'penalties' and are limited only by the efficiency of the underlying algorithms and computing power at their programmer's disposal.

Connecting the dots

- **What do you understand by machine learning? How will the technology impact the lives of humans in the near future?**

Best Wishes!

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