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18 December 2024

Religion and Reservation in India: Legal and Constitutional Perspectives

Context: The Supreme Court's have recently made remarks during the hearing of the Calcutta High Court's ruling. This has reignited debates around the constitutional validity of reservations based on religion.

- The Supreme Court observed that "reservation cannot be on the basis of religion." This was in response to the Calcutta High Court's May 2024 decision to strike down reservations granted to predominantly Muslim communities within the OBC quota.

Constitutional Framework for Reservations:

- **OBC Reservations Article 16(4):** Empowers the state to provide reservations to "any backward class of citizens" inadequately represented in public services.
- The Supreme Court's judgment in *Indra Sawhney v. Union of India* (1992) clarified that religion cannot be the sole criterion for classifying a group as backward, though it can be a relevant factor.

State Examples:

- **Kerala (1956), Karnataka (1995), and Tamil Nadu (2007):** Muslims were included within the OBC quota based on social and economic backwardness.
- **The Justice Sachar Committee (2006):** Highlighted the abysmally low representation of Muslim OBCs in government services and recommended equitable access to entitlements.

Calcutta High Court's Ruling (May 2024):

- The court struck down OBC reservations granted to 77 classes, predominantly from the Muslim community, citing a lack of "objective criteria" to determine backwardness.
- It ruled that religion was the sole basis for these reservations, violating constitutional principles.

SC Reservations:

- **Article 341(1):** Gives the President the power to specify SC communities.
- **The Constitution (Scheduled Castes) Order, 1950:** Initially restricted SC status to Hindus, later extended to Sikhs (1956) and Buddhists (1990).
- **Clause 3:** Excludes individuals who convert to

Christianity or Islam from SC reservations, based on the argument that caste disabilities do not persist in these religions.

Key Judicial Precedents:

- **Soosai v. Union of India (1985):** Converts must prove that caste-based disabilities continue to exist even after conversion to claim SC benefits.
- **Ghazi Saaduddin v. State of Maharashtra (Pending):** Challenges the constitutional validity of excluding Christian and Muslim converts from SC status.

Key Issues and Concerns:

- **Objective Criteria for Backwardness:** Courts emphasize that reservations must be based on socio-economic surveys and not solely on religion.
- **Caste Disabilities and Conversion:** Whether caste discrimination persists after conversion remains a critical question for policymakers and courts.
- **Legislative Delays:** Reports like the Ranganath Mishra Commission (2007) recommended inclusion of Christian and Muslim converts under SC status, but governments have not implemented these findings.

Implications for Governance:

- **Evidence-Based Policies:** Objective criteria like income, education, and employment data are essential for identifying backwardness.
- **Balancing Social Justice:** Policies must address the socio-economic needs of marginalized religious groups without violating constitutional provisions.
- **Judicial Clarity:** Ongoing cases, such as *Ghazi Saaduddin*, and the upcoming report from the K.G. Balakrishnan Commission could shape the future of SC and OBC reservations.

Comparative Analysis:

- Unlike India's caste-based reservation system, countries like the US and UK implement affirmative action focusing on economic and educational backwardness without religious distinctions.

Religion and Reservation: The Way Forward

- To make reservation policy in India more inclusive, it is necessary to adopt objective criteria. Backwardness should be identified on the basis of socio-economic factors such as income, education and employment. In-depth study with research is necessary to find out whether caste discrimination continues after conversion. The problems of Muslim and Christian converts can

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be solved by implementing the recommendations of the Ranganath Mishra Commission and the Sachar Committee.

- In addition, early decision on pending cases and commission reports will bring judicial clarity. Along with reservation, emphasis will also have to be laid on education, skill development and employment. Considering the possibilities of reservation on economic grounds could pave the way for inspiration from the affirmative action policies of other countries. With political and social consensus, a policy can be made which does justice to all sections and maintains social balance.

Arctic Report Card

Context: The National Oceanic and Atmospheric Administration (NOAA) has issued a stark warning in its latest "Arctic Report Card," highlighting a troubling shift in the Arctic tundra's role in climate dynamics. Once a significant carbon sink, the tundra is now contributing to global warming. As the region warms, permafrost thaws, releasing large amounts of CO₂ and methane—powerful greenhouse gases—into the atmosphere, amplifying climate change.

- This change not only accelerates Arctic warming but also has global consequences by trapping more heat and intensifying rising temperatures.

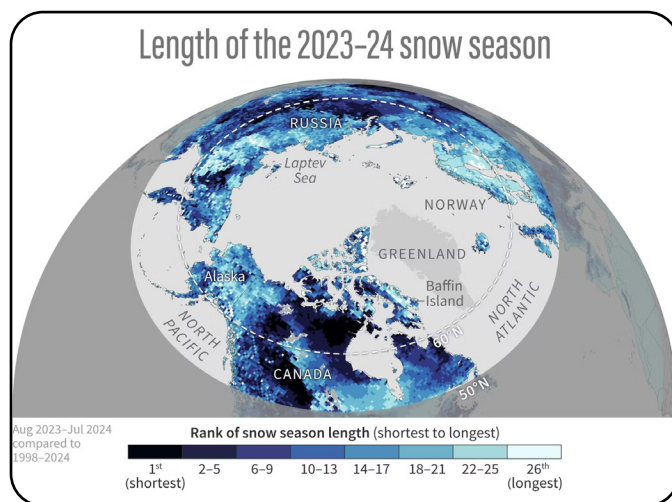
Key Factors Driving the Shift:

- **Rising Temperatures:** The Arctic is warming four times faster than the global average. This rapid warming causes permafrost to thaw, releasing carbon dioxide and methane as microorganisms break down organic matter that has been trapped for thousands of years.
- **Increased Wildfires:** Wildfires in the Arctic are becoming more frequent and intense. These fires add more carbon to the atmosphere by burning vegetation and further accelerate permafrost thawing, leaving behind scorched soil that speeds up the release of greenhouse gases.

How the Arctic Tundra Stores Carbon:

- The Arctic tundra has historically stored vast amounts of carbon through a slow decomposition process, where organic matter accumulates in permafrost due to cold temperatures.

- This permafrost, which remains frozen for at least two years, has acted as a natural carbon storage system, preventing the release of carbon into the atmosphere.
- Over thousands of years, this process has resulted in Arctic soils holding more than 1.6 trillion metric tonnes of carbon—about double the amount in Earth's atmosphere, making the tundra one of the planet's largest carbon reserves.



About the Arctic Tundra:

- The tundra is a cold, treeless biome with a short growing season. It forms in two regions: Arctic tundra, found above the Arctic Circle, and alpine tundra, located in high mountain elevations.
- Both receive less than 25 cm of precipitation annually and have long, cold winters. The soil is mostly permafrost, and plant life is limited to low vegetation such as mosses and lichens.
- Animals like caribou, arctic foxes, and polar bears are adapted to extreme cold and limited resources, with some migrating or hibernating.

The Path Forward:

- The Arctic tundra is increasingly threatened by climate change and human activity. If global greenhouse gas emissions are reduced, the thawing of permafrost may slow, and the release of stored carbon could be mitigated.
- However, current emission levels remain high, making it harder to reverse the damage. Continued emissions from fossil fuels and deforestation are expected to increase in 2024, further accelerating permafrost thawing and exacerbating global warming.

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- The future of the Arctic tundra depends on aggressive global efforts to reduce emissions and transition to renewable energy sources.

Could the POSH Act Apply to Political Parties?

Context: Recently, the issue of lack of any mechanism to handle sexual harassment complaints in political parties was raised in the Supreme Court through a Public Interest Litigation (PIL). The petition questions the absence of a safe workplace for women in political organisations.

- The question is, should the Prevention of Sexual Harassment (POSH) Act be applied to political parties?
- The Supreme Court has directed the petitioner in this case to approach the Election Commission (ECI) so that an in-house mechanism can be developed to handle complaints of sexual harassment within political parties.

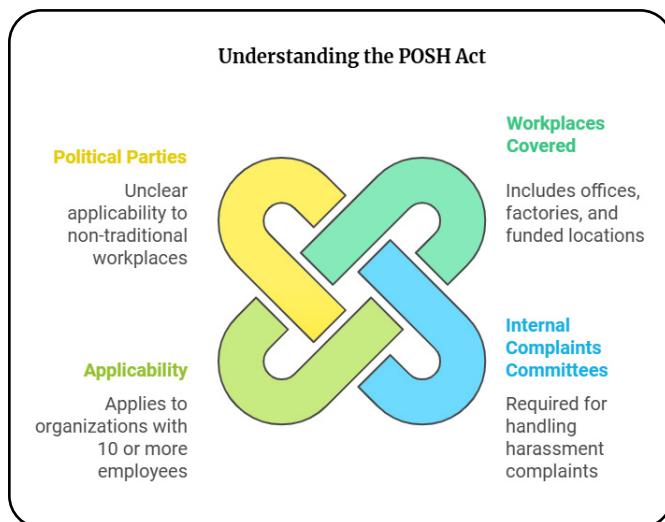
About POSH Act's Scope and Purpose:

- The POSH Act, enacted in 2013, aims to prevent sexual harassment in workplaces by requiring organizations to establish Internal Complaints Committees (ICCs).
- The Act applies to all workplaces with 10 or more employees, including public and private sectors, and covers places where employees work or travel during employment.
- The POSH Act defines "workplace" broadly, which includes traditional offices, factories, and any location funded by the government or private entities. However, the application of the Act to political parties remains unclear as they do not fit into the conventional workplace model.

Political Parties and the POSH Act:

- Political parties lack a formal employer-employee relationship, and party workers often do not have defined workspaces or formal contracts.
- Activities in political parties, such as campaigns and public meetings, are decentralized and do not provide a clear definition of a "workplace" under the POSH Act.
- In 2022, the Kerala High Court ruled that political parties are not required to form ICCs, as they do not have the typical employer-employee structure.
- Despite this, some argue that political parties, being significant public institutions, should be subject to the

same protections as other workplaces to ensure the safety and dignity of women.



Election Commission's Role:

- The Election Commission of India (ECI) is responsible for overseeing the registration, governance, and electoral processes of political parties.
- However, the ECI's role does not traditionally extend to enforcing laws such as the POSH Act within political organizations.
- In this case, the Supreme Court has directed the petitioner to approach the ECI to create an in-house mechanism for handling sexual harassment complaints, raising questions about the Commission's authority in this matter.
- The ECI has historically taken an advisory role in other non-electoral matters, like compliance with the Right to Information (RTI) and Child Labour Acts, but its capacity to enforce the POSH Act in political parties remains uncertain.

Current Disciplinary Structures in Political Parties:

- Political parties manage internal discipline through their own committees, but these committees do not meet the POSH Act's standards for ICCs.
- Parties like the Bharatiya Janata Party (BJP) and the Indian National Congress have disciplinary committees, but these committees often lack gender diversity and external representation, which are essential components of the POSH Act's ICCs.
- The POSH Act mandates that ICCs should have at

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least one external member and a balanced gender composition to ensure fairness and impartiality in handling complaints.

- Many political parties lack a formalized structure to address complaints, making it difficult for workers, volunteers, or office bearers to report sexual harassment.

Way forward:

Legal clarity is necessary to implement POSH Act on political

parties. Parliament or Supreme Court can include it in the definition of "workplace". Election Commission can include women safety and ICC requirement in the code of conduct for political parties. Political parties can set up autonomous complaint mechanisms that follow the standards of POSH Act. Committees with external experts and gender diversity should be formed to ensure safety of women. It is necessary to motivate political parties to create women-friendly environment through social pressure and training programmes.

Power Packed News

10th International Forest Fair Inaugurated

- The 10th International Forest Fair is being held in Bhopal from December 17 to December 23. The fair was inaugurated by Madhya Pradesh Chief Minister Dr. Mohan Yadav.
- The fair will provide a platform for collectors, producers, traders, entrepreneurs, scientists, administrators and policy makers associated with the forest sector, where they will discuss issues related to forest resources and their management.
- Delegates from Sri Lanka, Nepal and Australia are also participating in the fair. This year's theme has been kept as "Women Empowerment through Minor Forest Produce", as a significant part of minor forest produce management in Madhya Pradesh is done by women. The fair aims to raise awareness in the field of management of forest resources and women empowerment.

Russia to Introduce Visa-Free Travel for Indian Tourists in 2025

- Russia has announced the introduction of visa-free travel for Indian tourists. In June 2024, Russia and India signed a bilateral agreement under which Indian tourists will be able to travel to Russia without a visa. This visa-free travel will start after the spring of 2025.
- The main objective of this agreement is to promote tourism between Indian and Russian citizens, especially through the exchange of group tourism. Indian citizens are already allowed visa-free travel to 62 countries.
- In addition, Indian tourists can apply for e-visa for Russia from August 2023, which is processed in four days.
- The main attraction of Indian tourists to Russia is business and work. In 2023, more than 60,000 Indian citizens visited Russia to visit Moscow. Russia has already launched a visa-free tourist exchange program for citizens of countries like China and Iran.
- This move will further strengthen cultural and business ties between the two countries.



New Survey Vessel 'INS Nirdeshak' inducted into Indian Navy

- The Indian Navy inducted its new survey vessel 'INS Nirdeshak' on December 18 at Visakhapatnam. The ship will collect important deep-sea information for the Indian Navy and help in the operations of warships and submarines.
- The survey vessel 'Nirdeshak' is built with more than 80 percent indigenous material and is equipped with state-of-the-art hydrographic and oceanographic survey equipment.
- The ship has been built by Kolkata-based Garden Reach Shipbuilders and Engineers (GRSE), and weighs 3800 tonnes.
- The ship is 110 meters long and has two diesel engines. The main purpose of this vessel is to conduct hydrographic surveys, provide assistance in navigation and support maritime operations.
- This ship will further enhance the deep-sea achievements of the Indian Navy and help deal with sea-related threats.

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Former football player Mikhail Kavelashvili became the President of Georgia

- Former football player Mikhail Kavelashvili became the President of Georgia on 14 December 2024. He won an easy victory in the election, as he was the only candidate in the election. His victory was ensured by the influence of the Georgian Dream party, which controls the 300-seat electoral college of parliament.
- The Georgian Dream party retained its control over parliament in the election held in October 2024, although the opposition alleged that the election was rigged with the help of Moscow.
- Kavelashvili's victory indicates a pro-Russian stance in Georgia. The pro-Western Salome Zourabichvili was the president of Georgia from 2018 to 2024, whose term ended.
- Kavelashvili's electoral success has signaled political and diplomatic change in Georgia and his government could bring significant changes in Georgia's international relations and internal affairs.



India won the Women's Junior Asia Cup 2024 Hockey Championship

- India managed to win the title of the Women's Junior Asia Cup 2024 Hockey Championship in Muscat, Oman.
- The Indian team successfully defended its championship by defeating China 3-2 in the penalty shootout in the title match.
- After this spectacular victory, Hockey India announced a reward of Rs 2 lakh to each player and Rs 1 lakh to the support staff.
- India's Deepika Sehrawat won the top scorer title in the tournament with 12 goals.
- India also won their first Women's Hockey Junior Asia Cup title in 2023 when they defeated Republic of Korea. This time's victory is another big achievement for Indian women's hockey.

One Nation, One Election

- The Indian government has taken a major step towards the "One Nation, One Election" concept. On 17 December 2024, Union Law Minister Arjun Ram Meghwal introduced two key bills in the Lok Sabha: the Constitution (129th Amendment) Bill and the Union Territories Laws (Amendment) Bill. These bills aim to synchronize elections for the Lok Sabha, State Assemblies, Municipalities, and Panchayats, proposing the introduction of Article 82A for simultaneous elections nationwide.

High-Level Committee on Simultaneous Elections:

- The High-Level Committee on Simultaneous Elections, chaired by former President Ram Nath Kovind, was established by the Government of India on 2nd September 2023. The committee's main objective was to explore the feasibility of conducting simultaneous elections for the Lok Sabha and State Legislative Assemblies, aiming to reduce the burden on the government, businesses, political parties, and civil society caused by frequent elections.
- The High-Level Committee on Simultaneous Elections has recommended synchronized elections for Lok Sabha, State Legislative Assemblies, and local bodies to reduce the burden on the government, businesses, courts, political parties, and civil society due to frequent elections.
- Elections should be held in two phases:
 - First Phase:** Conduct Lok Sabha and State Legislative Assembly elections simultaneously.
 - Second Phase:** Hold local body elections (Panchayats and Municipalities) within 100 days of the general elections.

NOT A NEW IDEA

Simultaneous elections were the norm from India's first election in 1951 until 1967.

+ The first general elections to the Lok Sabha and State Assemblies were held together in 1951-52. The practice continued for three subsequent general elections in 1957, 1962, and 1967.

+ This cycle was disrupted in 1968 and 1969 due to the premature dissolution of some State Legislative Assemblies. The Fourth Lok Sabha was also dissolved prematurely in 1970.



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