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Daily News Analysis

# The Hindu Important News Articles & Editorial For UPSC CSE

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Add- 21/B, Om Swati Manor Chs, J.K. Sawant Marg, Opp. Shivaji Natyamandir, Behind Cambridge Showroom, Dadar (West) Mumbai – 400028
Con.- 09820971345, 9619071345, 9223209699
G-mail-lakshyaacademymumbai@gmail.com

## Page 01 : GS II : Governance : Government Policies & Interventions

The recent oral observations of the Supreme Court of India have reignited the national debate on freebies versus welfare. Drawing a constitutional distinction, the Court observed that indiscriminate distribution of "irrational freebies" is fundamentally different from investment in welfare schemes for marginalised sections, which is a constitutional obligation of the State.

# 'Freebies' different from investing in welfare for the marginalised, says SC

**Krishnadas Rajagopal**
NEW DELHI

The Supreme Court on Wednesday drew a clear line between state functionaries splurging public money on irrational freebies and "investing" in welfare schemes for the marginalised sections.

"Distribution of state largesse to individuals at a large scale is different from investing state largesse in public welfare schemes. That distinction should be kept in mind," Chief Justice Surya Kant observed orally.

The Supreme Court asked why there was no "dedicated diversion of revenue surplus for developmental purposes which would further the constitutional ideal of inclusivity through free medical care and education for the poor and those not in the creamy layer of the society. The state has a commitment towards this end".

The Chief Justice said launching welfare schemes was an obligation the state had to achieve under the Directive Principles of State Policy in the Constitution.

The oral observations from the Bench, also comprising Justice Joymalya Bagchi, was in response to

> Why is there no dedicated diversion of revenue surplus for developmental purposes which would further the constitutional ideal of inclusivity through free medical care and education for the poor?
> SUPREME COURT

an oral mentioning made by advocate Ashwini Kumar Upadhyay for early listing of a batch of petitions seeking a judicial declaration that irrational freebies offered by political parties to lure voters during poll time should be considered a "corrupt practice".

Mr. Upadhyay said when the petition was filed, the nation was in debt of ₹1.5 lakh crore, which had since increased to ₹2.5 lakh crore. Every Indian was in debt, and yet the state continued to rain freebies before polls, he submitted. "This is a very, very important matter," Chief Justice Kant reacted, agreeing to list it early for hearing.

**'Parasitic existence'**

In January last year, a top court Bench headed by Justice (now retired) B.R. Gavai had asked whether untrammelled freebies lull the poor into a parasitic existence, depriving them of any initiative to find work, join the mainstream and contribute to national development.

The court has, in previous hearings in the case, made its anxiety plain about parties, which form the government riding the wave created by their pre-poll promises of "free gifts", bleeding the State finances dry by actually trying to fulfil their "wild" promises of largesse using public money.

*Amicus curiae*, senior advocate Vijay Hansaria, had submitted that the court had to decide whether "giving freebies would be a corrupt practice under Section 123 of the Representation of the People Act, 1951 and become a ground for moving court in an election petition".

Senior advocate Arvind Datar, for the petitioner side, had submitted that freebies ought to be considered as "expenditure defrayable by the Union or a State out of its revenues" under Article 282. Advocate Prashant Bhushan had said legitimate freebies must not be classed with discriminatory gifts.

Consistently, over the years, the court has been shifting away from its 2013 judgment in the *S. Subramaniam Balaji versus Tamil Nadu* case, which held that making promises in election manifestos did not amount to a "corrupt practice" under Section 123 of the Representation of the People Act.



### Core Issue in the News

The Bench led by Justice Surya Kant clarified that:

Distribution of state largesse to individuals at a mass scale (freebies) cannot be equated with

Targeted welfare expenditure aimed at inclusivity, such as free education and healthcare for the poor.

The Court emphasised the absence of dedicated diversion of revenue surplus towards developmental and inclusive goals.

The matter arises from petitions seeking to declare irrational freebies announced during elections as a corrupt practice.

### What is the Difference between Freebies and Welfare Policies?

| Freebies | Welfare Policies |
|---|---|
| RBI in its 2022 report, defined "freebies" as "public welfare measures provided free of charge." | Welfare schemes are comprehensive initiatives aimed at uplifting target populations by enhancing their living standards and resource access. |
| Freebies often focus on short-term relief. | Rooted in the DPSPs, aligned with the goals of social justice and equity and aim for positive societal impact and long-term human |
| Typically include items such as free laptops, TVs, bicycles, electricity, and water, often used as electoral incentives. | |
| Frequently criticised for potentially encouraging | |

| | |
|---|---|
| dependency rather than promoting sustainable development. | development.<br>Examples: Public Distribution System (PDS), MGNREGA, and Mid-Day Meal (MDM) programs. |

**Constitutional and Legal Framework**

**1. Directive Principles of State Policy (DPSP)**

Welfare schemes are rooted in Directive Principles of State Policy:

Article 38: Promote social and economic justice

Article 39(b) & (c): Equitable distribution of resources

Articles 41 & 47: Right to education, health, and public welfare

The Court reaffirmed that welfare is not charity, but a constitutional duty.

**2. Representation of the People Act, 1951**

The legal debate centres on Representation of the People Act, 1951, especially:

Section 123: Defines "corrupt practices" in elections.

The key question:

Can pre-poll promises of irrational freebies be treated as inducement to voters?

**3. Judicial Precedents**

S. Subramaniam Balaji vs State of Tamil Nadu (2013):

Held that promises in election manifestos do not constitute corrupt practices.

However, recent observations suggest a gradual judicial shift away from this position due to fiscal stress and governance concerns.

**Positive Aspects of Freebies**

**Support to the Poor:** In low-development and high-poverty states, freebies help meet basic needs and uplift vulnerable sections.

**Foundation of Welfare State:** Many freebies align with constitutional obligations under DPSPs and have evolved into national welfare schemes.

NT Rama Rao's subsidised rice → National Food Security Act

Rythu Bandhu & KALIA → PM-KISAN

**Economic Multiplier Effect:** Distribution of goods (cycles, sewing machines, saris) boosts local manufacturing and allied industries.

**Social Empowerment:** Schemes like free bus passes enhance women's workforce participation and empowerment.

**Education & Skill Access:** Free bicycles and laptops reduce dropouts and improve learning outcomes, especially in rural areas.

**Public Trust & Participation:** Welfare delivery improves citizen satisfaction, political engagement, and voter turnout.

**Negative Aspects of Freebies**

**Fiscal Stress:** High subsidy burdens strain state finances and crowd out capital expenditure.

**Electoral Ethics:** Pre-election freebies distort free and fair elections, resembling indirect bribery.

**Misallocation of Resources:** Funds diverted from critical sectors like health, education, and infrastructure.

**Dependency Culture:** Excessive reliance discourages self-reliance, productivity, and entrepreneurship.

**Governance Dilution:** Freebies may mask governance failures and reduce accountability.

**Environmental Damage:** Free water and electricity encourage overuse of natural resources.



**Ethical Perspective**

**Government:**

Moral duty to reduce inequality, but must avoid populism.

Ethical governance demands transparency, targeting, and fiscal sustainability.

Policies should promote empowerment, not dependency.

**Citizens:**

Beneficiaries must act responsibly and pursue self-improvement.

Equity concerns arise if benefits are politically selective.

Freebie culture risks promoting entitlement over civic responsibility.

**Way Forward**

Strengthen autonomy and monitoring role of the Election Commission.

Improve voter awareness on long-term development priorities.

Shift focus from populist freebies to sustainable welfare.

Ensure transparency and accountability in scheme implementation.

Invest in robust social security systems—education, healthcare, and employment generation.

**Conclusion**

The Supreme Court's observations mark an important constitutional moment by clearly distinguishing productive welfare spending from fiscally reckless freebies. While welfare measures are indispensable for achieving social justice under the Directive Principles, unregulated populism threatens fiscal discipline, governance quality, and democratic integrity. Going forward, a balanced framework combining welfare delivery, fiscal prudence, and electoral accountability is essential to uphold both constitutional ideals and economic sustainability.

## UPSC Prelims Exam Practice Question

**Ques:** Section 123 of the Representation of the People Act, 1951 is related to:

(a) Disqualification of Members of Parliament

(b) Corrupt practices in elections

(c) Delimitation of constituencies

(d) Registration of political parties

Ans: b)

## UPSC Mains Exam Practice Question

**Ques:** What are the ethical and governance implications of political parties using freebies as a means to gain electoral advantage? **(150 Words)**

## Page 07 : GS II : Social Justice : Education / Prleims Exam

A December 2025 study published in Science challenges a long-held assumption in education and talent development: that early exceptional performance reliably predicts adult excellence.

By analysing large datasets across sports, chess, science, music, and other elite domains, the study finds that most early prodigies do not become top performers at peak adult age, and conversely, many adult achievers were not standout performers in childhood.

This finding has important implications for competitive examinations, talent identification systems, and education policy, particularly in countries like India where early specialisation is strongly incentivised.

# Study probes the vast gap between early prodigies and adult achievers

By reviewing studies on top-performing athletes, chess players, scientists, and classical music composers, researchers have reportedly identified factors correlated with exceptional performance; the findings can change how competitive exams identify top-performing students, experts say

Sayantan Datta
SRI CITY

Those who perform exceptionally well at a young age versus those who do so in adulthood are rarely the same people, according to a December 2025 study in *Science*.

This means "most early top performers don't become top performers at peak age, and ... most top performers at peak age weren't early top performers," the authors wrote in their paper.

By reviewing existing studies on top-performing athletes, chess players, scientists, and famous classical music composers, the researchers also reported to have identified factors correlated with exceptional performance.

The finding suggests a "broad-base skill set is important for people to succeed later in life," said Ankush Gupta, associate professor at Mumbai's Homi Bhabha Centre for Science Education (HBCSE).

This can change how competitive examinations, such as the IITs' Joint Entrance Examination (IIT-JEE) and the Science Olympiads, identify and train top-performing students, he added.

Dr. Gupta also serves as the Academic Coordinator of India's Chemistry Olympiad.

**Strong opening:** The study found well-performing children started in their field early and showed higher levels of discipline-specific practice compared to sub-elite performers in the same age group. FILE PHOTO

### Levels of human performance

The authors began by reviewing the research literature to investigate the factors that determine exceptional human performance, allowing them to "examine all of the available evidence we could find," Brooke Macnamara, one of the study's authors and associate professor of psychological sciences at Purdue University, said.

In the review, they included 19 existing datasets of about 35,000 adult top-performing athletes, chess players, classical music composers, artists, film directors, elite university graduates, and Nobel laureates and compared the findings against those from 66 studies of young and sub-elite performers (significantly better than most in a field but fall short of making it to the top-tier).

To check whether top-performing children and adolescents went on to become top-performing adults, the team used a mathematical equation to quantify the overlap between sets of junior and senior top athletes. They found that these groups differed by about 90%. They also obtained similar results for cohorts of top-performing junior and senior chess players.

When the team asked whether top graduates of elite schools eventually go on to become top earning adults, they once again found the populations differed by 85%.

### Making a top performer

The authors reviewed the selected studies for factors correlated to top-performance at younger and older ages. They found exceptionally well-performing children and adolescents started in their field early and showed higher levels of discipline-specific practice compared to sub-elite performers in the same age group.

How could multidisciplinary practice help? The authors had three hypotheses: (i) engaging with multiple disciplines early on increases performers' chances of finding one that is best suited for them. (ii) Early multidisciplinary training equips performers with the skills they need for later discipline-specific learning, including the ability to think flexibly and integrate different ways to explore solutions. (iii) Early discipline-specific practice can increase the chances of performers burning out, ceasing to enjoy that discipline, or – in case of sports – getting injuries that hinder their progress later.

Sindhu Mathai, a science education professor at Azim Premji University, Bengaluru, who wasn't involved in the study cautioned that the study only points to a correlation between early multidisciplinary training and later exceptional performance. It does not propose a causal link.

### Seeing value

Dr. Gupta said he sees value in training well-performing school students in multiple disciplines.

By way of example, he said success in the IIT-JEE is often seen as an indicator of being a top-performing student. However, this examination uses multiple-choice questions to test "a limited skill set" in sciences and mathematics, according to him.

"You are assuming that these students will do exceptionally good in engineering and science problem solving, without acknowledging that problem solving often requires observing real life phenomena, making inferences from them, and troubleshooting abilities," he said. Exposing students to multidisciplinary training enhances these skills, he believes.

The authors agreed. "Admission and training policies of many elite training institutions ... typically aim to select the top-early performers and then seek to further accelerate their performance through intensified discipline-specific training," they write.

While such training fosters "young high-achievers," this often comes at the "expense of long-term acquisition of the most exceptional human achievements," they added.

**The review included 19 existing datasets of about 35,000 top-performing adults from various fields; the findings were compared against those from 66 studies of young and sub-elite performers (significantly better than most in a field but fall short of making it to the top-tier)**

### Words of caution

There is one caveat, however. In Dr. Gupta's experience, multidisciplinary training would fail without the students getting "some support in how to synthesise" their knowledge.

For example, he said, it is easier for top-performing chemistry students to see why they need to study computer science and physics to be better at chemistry. However, he added, it's not clear even to top-performing chemistry or computer science students how studying chemistry can help them be better at computer science. The task of explaining that would fall on the students' teachers and mentors.

Dr. Macnamara also echoed Dr. Mathai's caution, saying "There is no 'if you do X, Y will follow'."

To establish such a causal relationship, future research will have to investigate whether aspects other than training, like a student's family background and individual characteristics, also played roles in their exceptional performance, Dr. Mathai added.

Two scientists have challenged the correlation itself. According to University of California Berkeley professor Alexandro Dimakis and University of Bristol professor Michel Nivard, the study doesn't adequately account for the base-rate fallacy and Berkson's paradox.

Researchers commit base-rate fallacy when they ignore the general prevalence of a trend in favour of specific cases. This means Macnamara et al.'s main finding, that top-performing children and adults are different groups, can be attributed to there being "many many more non-elite young candidates," Dr. Dimakis wrote on X.com. The claims the study makes aren't false, but they are presented without respective base rates, Dr. Nivard added in his comment, which he posted as a preprint paper.

That said, Dr. Dimakis conceded the authors do address base rates, just later in the paper.

Berkson's paradox, a.k.a. collider bias, is a statistical fallacy that arises because a study observed one kind of event more than others. Both Dr. Dimakis and Dr. Nivard referred to one sentence in the paper: "Across the highest adult performance levels, peak performance is negatively correlated with early performance."

The paradox says this negative correlation would disappear if one included the general population in the sample.

Dr. Macnamara said the criticism doesn't hold. "We are *not* extrapolating to the general population or young and sub-elite performers," she said (emphasis in the original).

In an email exchange with this reporter, Dr. Dimakis agreed "the authors do not extrapolate". However, "they also do not discuss how this negative correlation could be due to Berkson's paradox. The terms 'Berkson' or 'collider' do not appear in the paper."

Dr. Dimakis agreed "completely" with the study's "proposed lessons", that "students should be able to try different sports and different programs at later ages, that early specialisation can be a bad idea and that many students will benefit from trying more activities".

However, he cautioned journalists and people at large against making inferences like "early specialization does not help reach elite status at adult age" or "let kids be mediocre at multiple things instead of great at one thing".

Such extrapolation would be a classic example of collider bias, he said. "I think the authors should have emphasised these limitations more in their paper to prevent the general public from making incorrect causal conclusions."

Dr. Macnamara clarified the study's conclusions as follows: "We do not say that to be a world-class performer you should practice as little as possible or be as bad as possible early on. Rather, we explicitly state world-class performers engaged in large amounts of discipline-specific practice."

However, "world class performers usually had accumulated less discipline-specific practice compared with those performing just below this level," she added.

And even though world-class performers usually performed "above average early on", their performance when they were younger was not as good as those who would "eventually perform just below world-class," she said.

*(Sayantan Datta is a faculty member at Krea University and an independent science journalist. dattasayantan95@gmail.com)*

**Key Findings and Analysis**

The study highlights a striking mismatch—around 85–90%—between top performers in youth and those who excel in adulthood.

While high-performing children typically start early and engage in intense discipline-specific practice, long-term exceptional performance appears to be associated with a broader skill base and relatively less early hyper-specialisation.

**Three explanations are offered:**

**Exploratory advantage** – early exposure to multiple disciplines helps individuals discover better personal fit.

**Cognitive flexibility** – multidisciplinary learning builds transferable skills such as adaptability, synthesis, and problem-solving.

**Risk mitigation** – early specialisation increases risks of burnout, loss of motivation, and injuries (especially in sports).

For India, this has direct relevance to high-stakes examinations like IIT-JEE and Science Olympiads, which often equate early exam success with future excellence.

Experts argue that such exams test a narrow skill set and may overlook broader competencies essential for innovation, research, and real-world problem solving.

At the same time, the study is careful to emphasise correlation, not causation. Critics have pointed out statistical concerns such as base-rate fallacy and Berkson's paradox, warning against simplistic conclusions like "early specialisation is useless."

The authors themselves clarify that world-class performers still engage in substantial discipline-specific practice, but often not as intensely or narrowly as those who peak just below the top tier.

**Implications for Policy**

From a governance and education-policy perspective, the study supports reforms aligned with the National Education Policy (NEP) 2020, which promotes multidisciplinary learning, flexibility, and reduced early streaming.

It also questions the over-reliance on early competitive filtering as a proxy for long-term human capital development. Effective multidisciplinary training, however, requires strong mentorship to help students integrate knowledge across domains.

**Conclusion**

The study reframes excellence as a long-term, dynamic process rather than a linear outcome of early brilliance.

For India's education and examination systems, the key lesson is not to discard rigour or discipline-specific training, but to balance it with breadth, flexibility, and sustained motivation.

Policies that allow late bloomers to emerge and encourage exploration alongside depth are more likely to foster truly exceptional achievers over the life course.

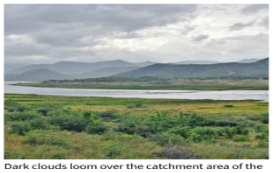
**UPSC Mains Exam Practice Question**

**Ques :** Early specialisation-based talent identification systems may undermine long-term excellence. Discuss in the light of recent research findings. **(150 Words)**

## Page 07 : GS I & III : Geography, Environment & Disaster Management and Essay

Recent research published in Nature highlights a grave environmental and developmental challenge for India and the world: rapid sinking of major river deltas due to human-induced land subsidence compounded by rising sea levels.

Indian deltas such as the Ganga–Brahmaputra, Brahmani, Mahanadi, Godavari, Cauvery and Kabani are among the most affected. Given that deltas support dense populations, agriculture, ports and economic activity, their degradation poses serious risks to climate resilience, food security and social stability.



Dark clouds loom over the catchment area of the Cauvery in Salem, Tamil Nadu. FILE PHOTO

**Study shows India's deltas sinking due to human activity**

The Hindu Bureau
CHENNAI

An international research team has found a systemic drop in land elevation across India's river deltas driven mostly by human activities.

The researchers were motivated by the lack of high-resolution data of river deltas' subsidence worldwide even though they support more than 340 million people.

They used interferometric synthetic aperture radar data from the European Space Agency's Sentinel-1 satellite collected in 2014-2023. The study covered 40 major deltas around the world, including six in India, at a spatial resolution of 75 m.

Then, the team used a random forest machine learning model that correlated the subsidence rates with three stressors: groundwater storage (already measured by the NASA-German GRACE satellites), sediment flux, and urban expansion.

The Ganges-Brahmaputra, Brahmani, Mahanadi, Godavari, Cauvery, and Kabani deltas were all confirmed to be sinking, with more than 90% of the Ganges-Brahmaputra, Brahmani, and Mahanadi deltas' total area affected. In the Ganges, Brahmani, Mahanadi, Godavari, and Kabani deltas as well, the average rate of land subsidence exceeded the rate of regional sea-level rise.

The team also found that 77% of the Brahmani delta and 69% of the Mahanadi delta were sinking at more than 5 mm/year. Even under the worst future climate scenario, the 95th-percentile

**The study using satellite data covered 40 major deltas around the world, including six in India, at a spatial resolution of 75 m**

subsidence rates in the Godavari delta were expected to exceed the projected rate of global sea-level rise.

In Kolkata, the subsidence rates equalled or exceeded the delta's average because the weight of the city and its resource consumption were actively accelerating its descent relative to the sea.

The effects of such subsidence include worse coastal and river flooding, permanent loss of land, intrusion of saltwater that contaminates freshwater sources and degrades agricultural land (which can increase competition for dwindling resources and drive migration), and damage to ports and transport networks.

The analysis also indicated that the Ganges-Brahmaputra and Cauvery deltas are particularly affected by unsustainable groundwater extraction while the Brahmani delta bears the brunt of rapid urbanisation.

The study also found that the Ganges-Brahmaputra delta has shifted from being a "latent threat" in the 20th century to an "unprepared diver" in the 21st, meaning risk has increased significantly while the institutional capacity to manage it has stagnated.

The study was published in *Nature* on January 14. "All deltas, by their inherent nature, subside over time as recently deposited sediments or in situ organic material compact under their weight, a process further influenced by isostatic adjustments and tectonic activity," the team wrote in its paper;" the team wrote in the paper. "However, human interventions have accelerated subsidence rates in many of the major deltas of the world, transforming a gradual geological process into an urgent environmental crisis."

The team also acknowledged that among other issues, the groundwater storage trends might be off for small deltas due to limitations in the GRACE data, that the sediment flux data aren't up to date, and that, "although the 40 deltas represent a substantial portion of global delta area and population, they are not globally representative".

### Global and Indian Context

River deltas occupy barely 1% of the Earth's land area, yet support 350–500 million people globally and host 10 of the world's 34 megacities.

The study analysed 40 major deltas across 29 countries, home to over 236 million people already facing increasing flood risk.

In India, more than 90% of the area of the Ganga–Brahmaputra, Brahmani and Mahanadi deltas is affected by subsidence.

Alarmingly, in several Indian deltas, land is sinking faster than sea levels are rising, which means flood risk is increasing even without extreme climate scenarios.

### Key Drivers: Human Activity and Sea-Level Rise

#### Excessive Groundwater Extraction

Identified as the dominant driver of subsidence in the Ganga–Brahmaputra and Cauvery deltas.

Over-extraction causes underground sediments to compact irreversibly, lowering land elevation.

Driven by agricultural demand, urban consumption and industrial use in densely populated regions.

#### Reduced Sediment Supply

Upstream dams, barrages and levees trap sediments that historically replenished delta land.

Indian deltas now mirror global examples like the Nile, Mississippi and Po, where sediment starvation has accelerated land loss.

**Rapid Urbanisation and Infrastructure Load**

Deltas such as Brahmani and cities like Kolkata are sinking at rates equal to or higher than surrounding regions due to construction pressure, groundwater use and land-use change.

**Sea-Level Rise (SLR)**

Global mean sea level is rising at about 4 mm per year due to thermal expansion of oceans and melting glaciers.

In 18 of the 40 deltas studied, including major Indian ones, subsidence exceeds regional sea-level rise, creating relative sea-level rise that is far more damaging than climate-driven SLR alone.

**Scale of the Threat**

35% of total delta area studied worldwide is sinking.

54–65% of global delta land is now affected by subsidence.

Seven large deltas (including Ganga–Brahmaputra) account for 57% of global subsiding delta area, showing that risks are concentrated where populations are highest.



**The combined impact of subsidence and sea-level rise leads to:**

Frequent and severe coastal and river flooding

Permanent land loss and wetland degradation

Saltwater intrusion contaminating freshwater and farmland

Damage to ports, transport networks and urban infrastructure

Displacement and migration, intensifying competition over land and water and fuelling social tensions

**Governance and Preparedness Gap**

The study classifies many Indian deltas as "unprepared divers"—regions facing high relative sea-level rise but with weak institutional, financial and planning capacity to respond. This vulnerability is most acute for rural, indigenous

and fishing communities living in low-lying areas (often below one metre above sea level), who have limited adaptive or relocation options.

**Way Forward**

Regulation of groundwater extraction through pricing, monitoring and crop diversification

Sediment management strategies, including rethinking dam operations and river-linking projects

Integrated Delta Management Plans combining climate adaptation, urban planning and disaster risk reduction

Strengthening early warning systems, embankment management and nature-based solutions (mangroves, wetlands)

Alignment with SDGs, Sendai Framework, and India's climate adaptation commitments

**Conclusion**

India's sinking deltas illustrate how climate change risks are being magnified by unsustainable development practices.

Sea-level rise is an unavoidable global phenomenon, but land subsidence driven by groundwater overuse, sediment disruption and unplanned urbanisation is largely a governance failure.

Unless India urgently adopts integrated, science-based delta management, its deltas may become epicentres of flooding, displacement and economic loss—undermining long-term coastal resilience and sustainable development.



**UPSC Prelims Exam Practice Question**

**Ques: Land subsidence in river deltas increases flood risk mainly because:**

A. It accelerates tectonic plate movement

B. It increases global mean sea-level rise

C. It causes relative sea-level rise even without climate change

D. It increases rainfall intensity in coastal regions

**Ans: c)**

**UPSC Mains Exam Practice Question**

**Ques:** Several major river deltas of India are experiencing land subsidence at rates faster than sea-level rise. Examine the causes and geographical implications of this phenomenon. (150 Words)

## Page 08 : GS II & GS III : Governance, Indian Economy and Science and Tech / Prelims Exam

India is reportedly considering a proposal to link its Central Bank Digital Currency (CBDC) with those of BRICS countries, potentially placing the issue on the agenda of the 2026 BRICS Summit. This move, driven by the Reserve Bank of India, reflects continuity with India's earlier push during its G-20 presidency for global coordination and standard-setting in digital finance. The proposal carries important implications for cross-border payments, financial transparency, monetary sovereignty, and geopolitics.

**Rationale Behind India's CBDC Push**

The RBI has consistently adopted a cautious stance on private cryptocurrencies, highlighting their risks—volatility, fraud, speculative bubbles, and erosion of household wealth—while simultaneously advocating CBDCs as a safer, sovereign-backed alternative. Unlike private crypto-assets, CBDCs carry state guarantees, are non-interest-bearing, and are designed as payment instruments rather than speculative assets.

Domestically, however, India's need for a CBDC is limited. The success and scale of Unified Payments Interface (UPI) have already created a highly efficient, inclusive, and low-cost digital payments ecosystem. Given this strong head start, CBDCs are unlikely to displace UPI in domestic retail payments. Hence, the RBI's strategic focus on cross-border CBDC applications appears more pragmatic.

**What are Cross-Border Payments?**

Cross-Border Payments (CBPs) refer to financial transactions in which the payer and the recipient are located in different countries. They form the backbone of international trade, global value chains, foreign investment, remittances, and e-commerce. With deepening globalisation, CBPs have become systemically important, yet remain costly, slow, opaque, and unevenly accessible—prompting coordinated reform efforts at both national and multilateral levels.

**Types of CBPs**

**Wholesale Cross-Border Payments**

Conducted mainly between financial institutions

Used for foreign exchange trading, securities settlement, commodity trade, inter-bank lending, and sovereign transactions

Critical for financial markets and large-value international trade

**Retail Cross-Border Payments**

Involve individuals and businesses (P2P, P2B, B2B)

**Building bridges**

The benefits of cross-border CBDC payments could outweigh costs

The RBI's reported moves towards encouraging India's BRICS partners to link their digital currencies with the RBI's own Central Bank Digital Currency (CBDC) are sensible but one that could pose some risks. According to news reports, the RBI has recommended to the Centre that a proposal connecting the CBDCs of the BRICS countries be made part of the agenda for the 2026 BRICS summit in India. This is a natural progression of India's push during its presidency of the G-20 in 2023 for international cooperation and standardisation on cryptocurrencies. The RBI has historically been extremely conservative about private cryptocurrencies, repeatedly calling for a ban, and progressive about CBDCs, arguing that they have multiple uses. Its stance seems largely correct – it recognises the evident risks of cryptocurrencies as assets to invest in, but sees the advantages of the blockchain as the backbone of payments infrastructure. While a ban on private cryptocurrencies seems extreme, their widespread adoption does expose the public to extreme volatility, fraud potential, and an erosion of wealth. CBDCs have the advantage of a sovereign guarantee and are also not interest-bearing. They are not only safe but will also not attract people looking to make returns. That said, India in particular has little use for a domestic CBDC. As digital payments go, the UPI infrastructure has proven to be excellent but has also far too big a headstart for CBDC to overcome. This is why the RBI's attempts to use CBDCs for international payments are a sensible approach.

Cross-border payments are a significant channel for black and laundered money. Any attempts to bring further transparency to such flows are welcome. Blockchains are excellent instruments for this purpose. They form transparent and immutable records of transactions and can be coded to provide relevant details such as the points of origin and destination. A BRICS agreement on such a payment infrastructure could further mandate that payments be linked to national identity numbers or tax departments. CBDC payments would also help ease some of India's stickier international payments issues. Payments to Russia and Iran, for example, will become easier since the SWIFT network is not available to either country. On the other hand, exactly such payments and the related move away from the dollar will inevitably anger President Donald Trump. He has already warned of additional tariffs on BRICS countries should they move away from the dollar. That said, with 50% tariffs in place, India needs to see whether incremental tariffs will actually hurt. The benefits of cross-border CBDC payments could still outweigh the costs.

Remittances by migrants to home countries are the most prominent example

Directly affect households, MSMEs, and financial inclusion

**Significance**

Global CBP market size: **USD 181.9 trillion (2022)**, projected to reach **USD 356.5 trillion by 2032**

River of global commerce: supports supply chains, exports, imports, services trade, and digital platforms

Despite covering just a small share of transaction volumes, retail CBPs account for a disproportionately high share of user costs

**Financial Stability Board**

The FSB is an international body responsible for monitoring and making recommendations about the global financial system. It was established in 2009 at the G20 Pittsburgh Summit as a successor to the Financial Stability Forum(FSF).
The FSB's membership includes the G20 countries, Spain, and the European Commission, in addition to the FSF members.
The FSB identifies and assesses systemic vulnerabilities in the global financial system.
This will contribute to ongoing efforts to strengthen the international financial system.
India is an active Member of the FSB having three seats in its Plenary represented by Secretary (Economic Affairs), Deputy Governor-RBI and Chairman-Securities and Exchange Board of India (SEBI).
The Financial Stability and Development Council Secretariat in the Department of Economic Affairs coordinates with financial sector regulators and agencies to represent India's views to the FSB.



**How Cross-Border Payments Work**

**Traditional Models**

**Direct Bank Transfers**: Banks hold nostro/vostro accounts with foreign counterparts

**Correspondent Banking**: Third-party banks intermediate transactions where no direct relationship exists (costly and declining)

**Single-System Models**: One payment provider handles the chain but suffers from interoperability constraints

**Interlinked National Systems**: Domestic payment infrastructures connected across borders, facing regulatory and technical hurdles

**Peer-to-Peer Models**: Use distributed ledger-based systems to bypass intermediaries

**New-Age Models**

**Linking Fast Payment Systems (FPS)**

Examples: India–Singapore UPI–PayNow linkage

Enables near-instant, low-cost retail CBPs

**Distributed Ledger Technology (DLT)**

Allows shared, tamper-proof ledgers

Improves reconciliation, auditability, and trust

**Central Bank Digital Currencies (CBDCs)**

Explored for settlement efficiency and reduced counterparty risk

Particularly relevant for wholesale CBPs

**Challenges in Cross-Border Payment Systems**

**Legal and Regulatory Fragmentation**

Divergent AML/CFT rules, data localisation laws, and settlement norms

Financial Stability Board (2023) flagged inconsistent wire-transfer recordkeeping

**High Costs**

Multiple intermediary fees, FX spreads, compliance costs

Capital locked in multiple currencies

**Low Speed**

Multi-day settlement due to intermediaries and time-zone mismatches

**Limited Access**

Weak banking penetration and digital infrastructure in developing regions



**Fragmented Data Standards**

Non-uniform formats reduce automation and increase errors

**Legacy Technology Dependence**

Systems not designed for real-time processing

**Long Transaction Chains**

Increase operational risk and data corruption

**Weak Competition**

High entry barriers reduce innovation and keep prices elevated

**Cross-Border Payments in India**

India is the **world's largest remittance recipient**, handling around **USD 80 billion in inbound remittances** annually.

**Evolution**

**Pre-digital era**: Demand drafts and correspondent banking

**NEFT**: Centralised, RBI-operated electronic transfers

**IMPS**: Near-instant remittances

**UPI-based Foreign Inward Remittances**: Seamless last-mile credit

**Regulatory reforms**: Introduction of PA-CB (Payment Aggregators – Cross-Border) framework by the Reserve Bank of India for tighter oversight

**International Efforts to Improve CBPs**

**G20 Roadmap (2020)**

Led by G20 and FSB

11 quantitative targets on cost, speed, access, transparency by 2027

**SWIFT GPI**

Launched by SWIFT

Enables same-day settlement and end-to-end tracking

**Project Nexus**

Conceptualised by Bank for International Settlements Innovation Hub

Connects domestic instant payment systems globally

Founding members include India and ASEAN countries

**Private Payment Networks**

Visa and Mastercard deploying API- and DLT-based B2B settlement platforms

**Way Forward**

**Regulatory Harmonisation**

Align AML/CFT norms while respecting national sovereignty

Clear role definition for intermediaries

**Privacy-by-Design Frameworks**

Balance data protection with financial integrity

**KYC Utilities**

Shared digital identity verification to reduce duplication

**Interoperability and Standards**

Common messaging and data formats

**Dispute Resolution Mechanisms**

Centralised grievance and inter-PSP settlement systems

**Central Bank Collaboration**

Joint pilots for FPS and CBDC interoperability

**Enhancing Competition**

Encourage private-sector innovation to lower costs and improve service quality

**Conclusion**

India's push for cross-border CBDC linkages within BRICS is a strategically calculated move that leverages blockchain technology to enhance transparency, payment efficiency, and monetary autonomy. Although geopolitical costs—particularly potential US pushback—cannot be ignored, the long-term benefits in terms of resilient financial infrastructure and reduced illicit flows may outweigh these risks. For India, the challenge lies in aligning innovation with diplomacy, ensuring that CBDCs strengthen economic sovereignty without triggering destabilising global financial frictions.



**UPSC Prelims Exam Practice Question**

**Ques: Which of the following best explains the role of Distributed Ledger Technology (DLT) in cross-border payments?**

(a) It replaces national currencies with private cryptocurrencies
(b) It enables simultaneous validation and updating of transaction records across a shared network
(c) It eliminates the need for AML and CFT compliance
(d) It increases transaction chains for better security

**Ans: b)**

**UPSC Mains Exam Practice Question**

**Ques:** How can improved cross-border payment systems contribute to curbing money laundering and terrorist financing? Highlight the associated regulatory challenges. (**150 Words)**

## Page 10 : GS II : Governance

The issue of whether prior sanction should be mandatory before investigating corruption charges against public servants has resurfaced following a split verdict of the Supreme Court of India on the constitutional validity of Section 17A of the Prevention of Corruption Act, 1988 (PCA).

The provision, introduced in 2018, seeks to balance protection of honest decision-making with the need for effective anti-corruption enforcement. The divergent judicial opinions underline a deeper tension between administrative efficiency and constitutional accountability.

# Should corruption charges need prior sanction?

What does Section 17A of the Prevention of Corruption Act, 1988 mandate? Why was there a split verdict on deciding whether Section 17A was constitutionally valid? What do earlier rulings by the Supreme Court state? What are the systemic reforms needed to tackle corruption among public officials?

EXPLAINER

Rangarajan. R

**The story so far:**

A two-judge Bench of the Supreme Court has delivered a split verdict on the constitutional validity of Section 17A of the Prevention of Corruption Act, 1988 (PCA, 1988) that requires prior approval from the appropriate government before investigation into any offence alleged to have been committed by a public servant in discharge of official functions.

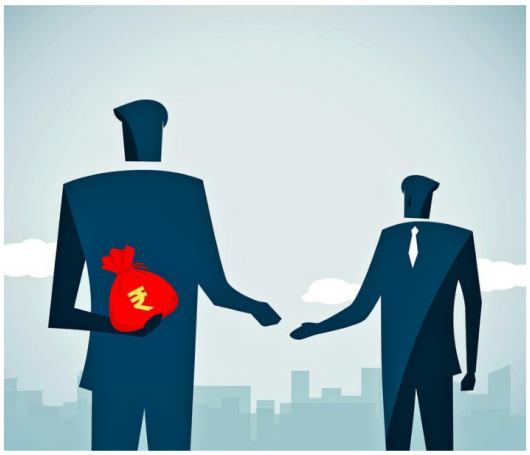
**What is the PCA, 1988?**

The Central government had constituted a committee on prevention of corruption under the chairmanship of K. Santhanam in 1962. The Santhanam committee submitted its report in 1964. It resulted in the strengthening of laws dealing with bribery and criminal misconduct. Finally, a comprehensive act was enacted to consolidate the law relating to prevention of corruption in the form of PCA, 1988.

The PCA, 1988 provides for punishment with respect to offences committed by public servants while performing public duties. 'Public servant' includes any government or local authority employee, any Judge, any person who holds an office by virtue of which he is required to perform a public duty etc. 'Public duty' means a duty in the discharge of which the government, the public or the community at large has an interest. The type of offences punishable under the PCA, 1988 include bribery, undue advantage without consideration, criminal misconduct etc.

**What is Section 17A?**

Section 19 of the PCA, 1988 requires prior sanction from the appropriate government before prosecution of a public servant in a court of law. However, it was felt that there needs to be a distinction in dealing between intentional corruption and decisions taken in good-faith that could potentially go wrong. Officers become reluctant to take bold and timely decisions because of fear of wrongful prosecution. In order to address this issue, the Parliament inserted Section 17A through an amendment of the PCA in the year 2018.



GETTY IMAGES

This section requires prior approval from the appropriate government for initiating an inquiry or investigation into any alleged offence committed by a public servant which is relatable to any recommendation made or decision taken by a public servant in discharge of official function or duties.

**What were earlier rulings?**

In *Vineet Narain versus Union of India* (1998), the Supreme Court struck down an executive order, referred to as 'Single Directive', issued to the Central Bureau of Investigation (CBI), that required prior sanction of the designated authority before initiating investigation against certain categories of public servants. Subsequently, in 2003, Parliament amended the Delhi Special Police Establishment Act (DSPE Act), that governs the functioning of the CBI. Section 6A was added to this Act that required prior approval of the Central government to initiate any investigation against officers at the rank of Joint Secretary or above. This was also struck down by the SC in *Dr Subramaniam Swamy versus Director, CBI* (2014) as violative of Article 14 of the Constitution that guarantees equality before law.

**What is the current split verdict?**

The current verdict of a division Bench of the Supreme Court is on a Public Interest Litigation (PIL) filed by the Centre for Public Interest Litigation (CPIL) against the Union of India. Justice K. V. Viswanathan held that the requirement of obtaining prior approval before initiating investigation was necessary in order to protect honest officers from vexatious and frivolous complaints. His judgment cautioned that a 'play-it-safe syndrome' may set in the bureaucracy if such a protection was not available. However, he held that the constitutional validity of Section 17A would be sustained only if the approval is provided by an independent agency and not by the government itself. His order read Section 17A in conjunction with Lokpal and Lokayuktas Act, 2013 and held that the approval should be provided by the appropriate government based on a binding opinion given by Lokpal and Lokayuktas in respect of Central and State government employees respectively.

Justice B. V. Nagarathna on the other hand held that Section 17A was unconstitutional and tantamount to 'Old wine in new bottle' that was struck down in earlier cases by the court. She held that Article 14 requires intelligible differentia and rational nexus to the legislative object, and that Section 17A fails on both counts. She held that adequate protection for honest officers in the form of prior sanction from the government before prosecution by a court is already available under Section 19 of the PCA.

This matter will now be heard by a larger Bench for a conclusive decision. Meanwhile, there are two systemic reforms that are warranted. First, there must be swift disposal of cases and handing over punishments for guilty public servants that would act as a deterrent against corruption. Second, penalty may be imposed for false and malicious complaints. This would act as a deterrent against habitual and vexatious complaints.

*Rangarajan. R is a former IAS officer and author of 'Courseware on Polity Simplified.' He currently trains at Officers IAS academy. Views expressed are personal.*

### THE GIST

- The PCA, 1988 provides for punishment with respect to offences committed by public servants while performing public duties.
- Section 19 of the PCA, 1988 requires prior sanction from the appropriate government before prosecution of a public servant in a court of law.
- In *Vineet Narain versus Union of India* (1998), the Supreme Court struck down an executive order, referred to as 'Single Directive', issued to the Central Bureau of Investigation (CBI), that required prior sanction of the designated authority before initiating investigation against certain categories of public servants.

**Background: Prevention of Corruption Act, 1988**

The PCA, 1988 was enacted to consolidate laws relating to corruption among public servants, drawing from recommendations of the Santhanam Committee (1964).

It criminalises acts such as bribery, abuse of official position, and criminal misconduct. While Section 19 mandates prior sanction before prosecution, the law earlier allowed investigation without such approval.

**What does Section 17A mandate?**

Inserted through the 2018 Amendment, Section 17A requires prior approval of the appropriate government before initiating any inquiry or investigation into an alleged offence committed by a public servant in relation to decisions or recommendations made in official capacity.

Rationale behind Section 17A

To protect honest officers from vexatious and motivated complaints

To prevent a "policy paralysis" or "play-it-safe syndrome" in administration

To distinguish between bona fide decisions and intentional corruption

**Earlier Supreme Court rulings: Judicial consistency?**

The constitutional validity of such protective provisions has been examined earlier:

**Vineet Narain v. Union of India (1998)**

Struck down the Single Directive requiring prior sanction for CBI investigation

Held that corruption investigations must be independent and free from executive control

**Dr. Subramanian Swamy v. Director, CBI (2014)**

Struck down Section 6A of the DSPE Act, which protected senior officers

Declared it violative of Article 14 (Equality before Law)

These rulings emphasised that classification of officials for investigative protection lacks constitutional justification.

**The Split Verdict on Section 17A**

**Justice K. V. Viswanathan (Upheld with conditions)**

Recognised the need to shield honest officers

Warned against bureaucratic risk-aversion

Held Section 17A constitutionally valid only if:

Approval is granted through an independent institutional mechanism

Linked the provision with the Lokpal and Lokayuktas Act, 2013

Government approval must be based on binding opinion of Lokpal/Lokayukta

**Justice B. V. Nagarathna (Struck down)**

Held Section 17A unconstitutional

Called it "old wine in a new bottle", already invalidated earlier

Found it violative of Article 14 due to:

Lack of intelligible differentia

No rational nexus with the objective

Noted that Section 19 already provides sufficient protection at prosecution stage

The matter is now referred to a larger Bench for authoritative settlement.

**Systemic Issues Highlighted**

The case exposes structural weaknesses in India's anti-corruption framework:

Delay in investigations and trials

Executive control over investigative agencies

Lack of accountability for false complaints

Weak deterrence due to low conviction rates

**Systemic Reforms Needed**

**Time-bound investigation and trial of corruption cases**

Fast-track courts

Fixed timelines for sanction decisions

**Strengthening independent oversight bodies**

Empower Lokpal/Lokayuktas with binding authority

Reduce executive discretion

**Penalising malicious and frivolous complaints**

To protect honest officers without blocking genuine cases

**Clear distinction between policy decisions and corrupt intent**

Codified standards for "bona fide decisions"

**Capacity-building and ethical training of public officials**

Reinforcing integrity-based governance

**Conclusion**

The debate around Section 17A of the PCA reflects a fundamental governance dilemma: how to protect honest decision-making without institutionalising impunity. While administrative discretion deserves safeguards, constitutional principles of equality, accountability, and rule of law cannot be compromised. The forthcoming decision of the larger Bench will be crucial in defining the future trajectory of India's anti-corruption regime. Ultimately, systemic reforms, not procedural shields, offer the most sustainable solution to corruption in public life.

**UPSC Mains Exam Practice Question**

**Ques :** With reference to the recent split verdict of the Supreme Court of India, examine the constitutional issues involved in granting prior approval for investigation against public servants. **(150 words)**

# *Judicial removal — tough law with a loophole*

**P.D.T. Achary**

is former Secretary General, Lok Sabha

There has been much attention on 107 Members of Parliament in the Lok Sabha (the INDIA bloc) having given notice of an impeachment motion in December 2025, seeking the removal of Justice G.R. Swaminathan, Judge of the Madras High Court. The motion had 13 charges against the judge which included one that the judge has been acting against secular constitutional principles and favouring lawyers of a particular community. The notice of the motion was submitted to the Speaker of the Lok Sabha, Om Birla, on December 9.

**The terms and conditions**

Impeachment of a judge of the Supreme Court of India is provided for in Articles 124(4) and 124(5) of the Constitution and that of a High Court judge in Articles 217(1)(b) and 218. The term 'impeachment' is not used in the Constitution which instead uses the term 'removal' in the case of judges. The term 'impeachment' is used only in the context of the removal of the President of India from office (Article 61). The procedure laid down in Article 124 for the removal of a Supreme Court judge applies to a High Court judge as well.

Article 124(5) provides that Parliament may make law to regulate the procedure for the investigation of the charges against the judge. Accordingly, Parliament enacted the Judges (Inquiry) Act in 1968 which, together with the Judges Inquiry Rules, deals with the entire procedure for the impeachment of judges.

A judge of the Supreme Court or the High Court can be removed from office on the ground of proved misbehaviour or incapacity. Misbehaviour has not been specifically defined in the Constitution. But the Court has in a number of judgments explained this term as conduct which brings dishonour to the judiciary, wilful misconduct, corruption, lack of integrity, offence involving moral turpitude, and wilful abuse of judicial office.

There have been very lofty pronouncements by the top court on the ideal conduct of judges. In *K. Veeraswami vs Union Of India And Others* (1991), the Court said that "... the society's demand for honesty in a judge is exacting and absolute. The standards of judicial behaviour both on and off the bench are normally extremely high. For a judge to deviate from such standards of honesty and impartiality is to betray the trust reposed on him. No excuse or no legal relativity can Condon such betrayal."

On the meaning of proven misbehaviour, the Court in *M. Krishna Swami vs Union Of India and Ors.* (1992) says "every act or conduct or even error of judgments or negligent acts by higher judiciary per se does not amount to misbehaviour. Wilful abuse of judicial office, wilful misconduct in the office, corruption, lack of integrity or any other offence involving moral turpitude would be misbehaviour. Misconduct implies actuation of some degree of *mens rea* by the doer."

The operation of a serious constitutional provision for removing an unworthy judge can still be thwarted

**Procedures of the motion**

An analysis of Articles 124(4) and (5), the Judges (Inquiry) Act, 1968 and Rules would reveal that lawmakers were extremely careful about protecting the independence of the judiciary. So, the law relating to the removal of a judge of the superior courts was made as tough as possible. The main provisions of Articles 124(4) and (5) are: 'an address to be passed by each House of Parliament supported by a majority of the total membership of each House and by a majority of not less than two thirds of the members present and voting which shall be sent to the President seeking the removal of the judge who shall thereupon pass an order removing the judge from his office'. It also provides for the enactment of a law by Parliament for regulating the procedure relating to the investigation of charges against the judge and for the presentation of an address to the President seeking his removal.

This Act provides for a motion to be submitted to either the Speaker (Lok Sabha) or the Chairman (Rajya Sabha) signed by Members of either House. The Act requires not less than 100 Members of the Lok Sabha to sign the notice of motion if given to the Speaker and not less than 50 Members of the Rajya Sabha to sign the notice if given to the Chairman. The motion seeks to present an address to the President for the removal of the judge.

The Act in fact introduces a procedure under which the motion given notice is required to be admitted by the Speaker/Chairman in the first place. The Act further says that the Speaker/Chairman may even disallow the motion.

Of course, he will consider materials available to him and may also consult such persons as he thinks fit before admitting or rejecting the motion. The most crucial thing about this procedure is that if the Speaker/Chairman refuses to admit the motion, no further action will be taken in the matter and the motion will lapse.

This procedure needs closer examination. The Act does not mention the conditions of admissibility of the motion, which is the case in respect of all motions and resolutions under the Rules of Procedure of the Houses of Parliament. It may be noted here that the Speaker/Chairman while admitting or disallowing the motion under this Act is not performing the duty as the Presiding Officer of the House. On the contrary, he acts as a statutory authority and thus performs a statutory Act. Still, the basic conditions of admissibility of the motion need to be spelt out. Otherwise, the action of disallowing the motion may attract the charge of arbitrariness especially when the Speaker is performing a statutory act. It is another matter that since disallowing the motion is a statutory Act, as distinct from a legislative Act performed in the House, it can be challenged in court.

**Where the flaw lies**

As a matter of fact, the charges against a judge are thoroughly investigated by a committee appointed by the Speaker/Chairman consisting of a judge of the Supreme court, the Chief Justice of a High Court and a distinguished jurist. This action is taken after the motion is admitted by the Speaker/Chairman. This will be a detailed investigation done by very experienced judicial officers. So, what exactly will be the examination which the Speaker/Chairman will do at the first stage? It may be mentioned here that under the law, the preliminary examination by the Speaker/Chairman is of such crucial importance that if the notice of motion signed by as many as 100 or more Members of Parliament is disallowed without assigning any reasons, the whole exercise which is undertaken by Parliament for the impeachment of a judge under a constitutional provision becomes infructuous because the motion does not survive. This points to a serious flaw in the law. Article 124(5) does not refer to any specific motion which is required to be admitted or disallowed by the presiding officer of the House. It may be noted here that under Article 61, there is a provision for a resolution which is mandatorily to be moved. But this Article does not empower the Speaker/Chairman to refuse to admit it on any grounds.

In fact, Article 124(5) which empowers Parliament to make a law to "regulate the procedure for the presentation of an address" and for "investigation and proof of the misbehaviour or incapacity of a judge" does not leave any space for the Speaker/Chairman to refuse admission of the motion. Proof of misbehaviour is to be established through investigation which is to be done by the high-level committee appointed by the Speaker/Chairman.

So, obviously, there is no ground on which a motion signed by as many as 100 Members of Parliament (MP) can be rejected at the threshold.

There is no reason to think that the MPs who move a motion for impeaching a judge will do so without being serious about it. But there is every reason to think that a motion for impeaching a judge is most likely to be disallowed at the threshold if the government does not want it. Thus, the operation of a serious constitutional provision for removing an unworthy judge can be thwarted by the whims of a government.

Therefore, the provision which gives the Speaker/Chairman an option to disallow the motion needs to be revisited.

**GS Paper II : Indian Polity**

**UPSC Mains Practice Question:** How does the revival of sphere-of-influence politics by major powers challenge the principles of sovereignty and non-intervention? Discuss with reference to developments in Latin America, Europe, and the Indo-Pacific. **(250 Words)**

## Context :

The recent notice of an impeachment (removal) motion by 107 Members of Parliament in the Lok Sabha against a sitting High Court judge has revived debate on the effectiveness and integrity of India's constitutional mechanism for judicial accountability. While the Constitution makes the removal of judges deliberately stringent to preserve judicial independence, the current controversy highlights a procedural loophole that allows the entire process to collapse at the threshold stage, raising concerns about arbitrariness and executive influence.

**Constitutional and Legal Framework for Judicial Removal**

The removal of judges of the higher judiciary is governed by:

Articles 124(4) and 124(5) – Supreme Court judges

Articles 217(1)(b) and 218 – High Court judges



The Constitution avoids the term "impeachment" for judges and instead uses "removal", reserving impeachment only for the President of India (Article 61).

A judge can be removed only on the grounds of proved misbehaviour or incapacity, and only through a special majority in both Houses of Parliament.

To operationalise Article 124(5), Parliament enacted the Judges (Inquiry) Act, 1968, along with the Judges Inquiry Rules, which prescribe the detailed procedure.

**Meaning of "Proved Misbehaviour": Judicial Interpretation**

The Constitution does not define misbehaviour. However, the Supreme Court of India has clarified its scope in several judgments:

**K. Veeraswami v. Union of India (1991)**

Judges are held to absolute standards of integrity and impartiality

**M. Krishna Swami v. Union of India (1992)**

Not every error or negligent act amounts to misbehaviour

Misbehaviour involves wilful misconduct, corruption, lack of integrity, moral turpitude, or abuse of office, implying mens rea

These rulings underline that judicial accountability is substantive, not symbolic, but must be proven through a rigorous process.

**Procedure under the Judges (Inquiry) Act, 1968**

**Notice of Motion**

Minimum 100 MPs in Lok Sabha or 50 MPs in Rajya Sabha

Submitted to the Speaker or Chairman respectively

**Crucial Threshold Stage**

The Speaker/Chairman may admit or disallow the motion

If disallowed, the motion lapses completely

**Inquiry Stage (only if admitted)**

A three-member committee:

One Supreme Court judge

One Chief Justice of a High Court

One distinguished jurist

Committee conducts a detailed investigation and submits findings

**Parliamentary Vote**

Special majority in both Houses

Address sent to the President for removal

**Where the Loophole Lies**

The core flaw lies in the unchecked discretion of the Speaker/Chairman at the admission stage:

The Act does not prescribe any conditions or criteria for admitting or rejecting a motion

No requirement to record reasons for disallowance

A motion signed by over 100 elected representatives can be rejected without investigation

This effectively allows a statutory authority (Speaker/Chairman) to nullify a constitutional process

**Importantly:**

Article 124(5) empowers Parliament only to regulate investigation and proof, not to create a veto at the entry stage

Unlike Article 61 (President's impeachment), there is no constitutional provision allowing refusal to admit a judicial removal motion

**Implications for Judicial Accountability and Democracy**

Judicial independence is protected, but at the cost of accountability

The process becomes vulnerable to political considerations, especially if the government of the day is disinclined

A serious constitutional remedy risks becoming illusory rather than real

Public confidence in the judiciary may erode if allegations cannot even be examined



**Need for Reform**

To balance judicial independence with constitutional accountability, the following reforms are necessary:

**Statutory limitation on Speaker/Chairman's discretion**

Admission should be mandatory once numerical requirements are met

**Clearly defined admissibility criteria**

Prima facie relevance, not proof, should suffice at threshold

**Mandatory recording of reasons**

To prevent arbitrariness and enable judicial review

**Automatic reference to inquiry committee**

**Conclusion**

India's constitutional design rightly makes the removal of judges exceptionally difficult, safeguarding judicial independence from transient political pressures. However, difficulty must not translate into impossibility. The current legal framework allows a vital constitutional mechanism to be thwarted at the very outset, undermining both judicial accountability and parliamentary authority. Revisiting the discretionary powers of the Speaker/Chairman is therefore essential to ensure that no judge is beyond scrutiny, and no constitutional safeguard is rendered hollow.