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Daily News Analysis

The Hindu Important News Articles & Editorial For UPSC CSE

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Page 04 :GS II &III : Governance and Environment / Prelims Exam

In a landmark order dated May 5, 2026, a Supreme Court Bench of Justices Pankaj Mithal and S.V.N. Bhatti directed the Ministry of Environment, Forest and Climate Change (MoEFCC) to delegate enforcement powers to **District Collectors (DCs)** nationwide. This intervention comes in the wake of the new **SWM Rules, 2026**, which replaced the 2016 framework on April 1, 2026. The move is designed to ensure that the "polluter pays" principle and scientific waste disposal are not just on paper but strictly enforced at the grassroots level.

Legal Context: EPA 1986

The Court utilized specific provisions of the **Environment (Protection) Act (EPA), 1986**, to decentralize authority:

- **Section 23 (Power to Delegate):** The Court directed MoEFCC to use this section to delegate the Central Government's powers to state-level or district-level officers.
- **Section 5 (Power to Give Directions):** Powers under this section—which include the authority to issue directions for the closure of industries or the stoppage of essential services (water/electricity)—have now been vested in District Collectors for one year.

Key Directives and Empowerment of Collectors

The Supreme Court has effectively turned District Collectors into "Waste Management Tsars" within their jurisdictions:

- **Coercive Action:** Collectors can now order the **disconnection of water and electricity** to **Bulk Waste Generators (BWGs)** (e.g., malls, hotels, large housing societies) if they fail to comply with waste segregation and disposal norms.
- **Special Cells:** Each DC must constitute a "Special Cell" including Regional Officers of the Pollution Control Boards to oversee implementation.
- **Digital Oversight:** Collectors are tasked with conducting **virtual spot inspections** of dumping sites to ensure transparency.
- **Fortnightly Reporting:** A structured reporting mechanism has been established where DCs must send progress reports to State Secretaries every fifteen days.

'Empower Collectors to enforce waste management rules'

Aaratrika Bhaumik
NEW DELHI

The Supreme Court has directed the Ministry of Environment, Forest and Climate Change to issue a notification under the Environment (Protection) Act, 1986 delegating its powers to Collectors across the country for one year to ensure strict implementation of the Solid Waste Management (SWM) Rules, 2026.

Observing that the rules embody efforts to protect the planet and the nation from "man-made destruction", a Bench of Justices Pankaj Mithal and S.V.N. Bhatti issued a slew of directions aimed at securing uniform implementation of the framework, which came into effect on April 1, 2026.

"... the MoEFCC is directed to issue a notification under Section 23 and delegate the powers under Section 5 of the Environment Protection Act, 1986, to the District Collectors across the country for a period of one year, exclusively for supervising, administering and implementing SWM Rules, 2026, within their jurisdictional limits", the Bench said in its May 5 order.

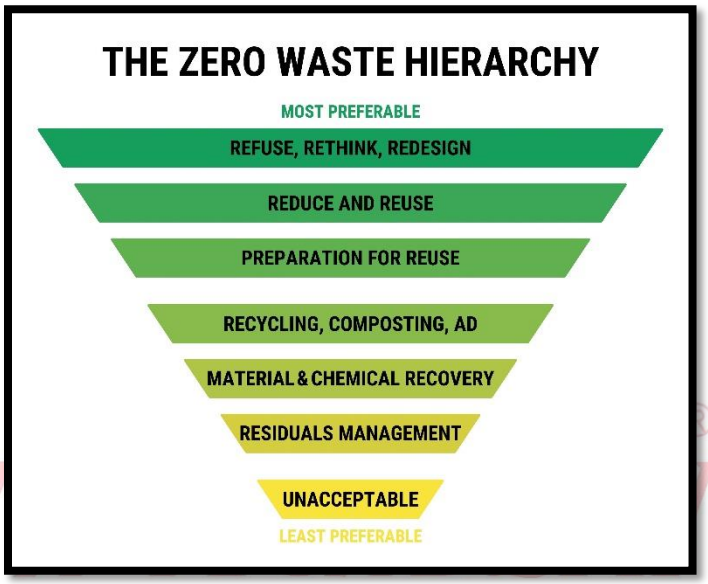
The Bench further directed District Collectors to constitute a "special cell" comprising all relevant officials to assist in supervising, administering and implementing the rules. The Collectors were also empowered to order disconnection of water and electricity supply to bulk generators of solid waste found to be in violation of the rules.

"The District Collectors are directed to conduct virtual spot inspections of the dumping sites, implement the rules, and fortnightly prepare and forward the report to the designated Secretaries in the respective States," it said.

- **Authorized Transport:** DCs must ensure that only authorized vehicles transport waste to prevent illegal dumping along roadsides, water bodies, or forests.

Features of Solid Waste Management Rules, 2026

To understand the significance of the Court's order, one must look at the 2026 Rules themselves:



- **Four-Stream Segregation:** Mandatory separation of waste into **Wet, Dry, Sanitary, and Domestic Hazardous** streams.
- **Digital Traceability:** Use of a centralized portal for real-time tracking of waste from collection to final processing.
- **Legacy Waste Management:** Strict timelines for the bioremediation of existing dumpsites (e.g., mapping by October 2026).
- **Circular Economy:** Priority on "Refuse, Reduce, Reuse, and Recycle" over traditional landfilling.

Analysis: Why This Matters for UPSC

A. Impact on Federalism and Governance

The order shifts the implementation burden from Urban Local Bodies (ULBs), which often lack the political will or administrative muscle, to the District Collector. This highlights a **centralization of enforcement** to overcome the inefficiency of decentralized local bodies.

B. Environmental Jurisprudence

The Court linked waste management to **Article 21 (Right to Life)**, emphasizing that a clean environment is a fundamental right. By stating that a DC's order is "in furtherance of the orders of this Court," the SC has provided legal immunity and weight to administrative actions, making it harder for violators to stall via lower courts.

C. Challenges in Implementation

- **Administrative Overburden:** Collectors are already tasked with revenue, law and order, and disaster management. Adding "Waste Supervisor" to their list may lead to burnout or superficial compliance.
- **Technical Expertise:** Waste management is a technical field involving chemistry and engineering; administrative officers will need strong support from Pollution Control Boards.

Conclusion

The Supreme Court's "one-year experiment" of empowering District Collectors is a desperate but necessary surgical strike against India's waste crisis. While the SWM Rules, 2026, provide a modern digital roadmap, the Collector's office provides the necessary "teeth" for enforcement. For this to succeed beyond the one-year period, the focus must eventually shift from "coercive enforcement" to "sustainable infrastructure" and "community-led behavioral change.

UPSC Prelims Exam Practice Question

Ques:Consider the following features of the Solid Waste Management Rules, 2026:

1. Mandatory four-stream segregation of waste

2. Digital traceability of waste movement

3. Priority to circular economy principles

4. Complete prohibition on landfills

Which of the above are correct?

(a) 1 and 2 only

(b) 1, 2 and 3 only

(c) 2, 3 and 4 only

(d) 1, 2, 3 and 4

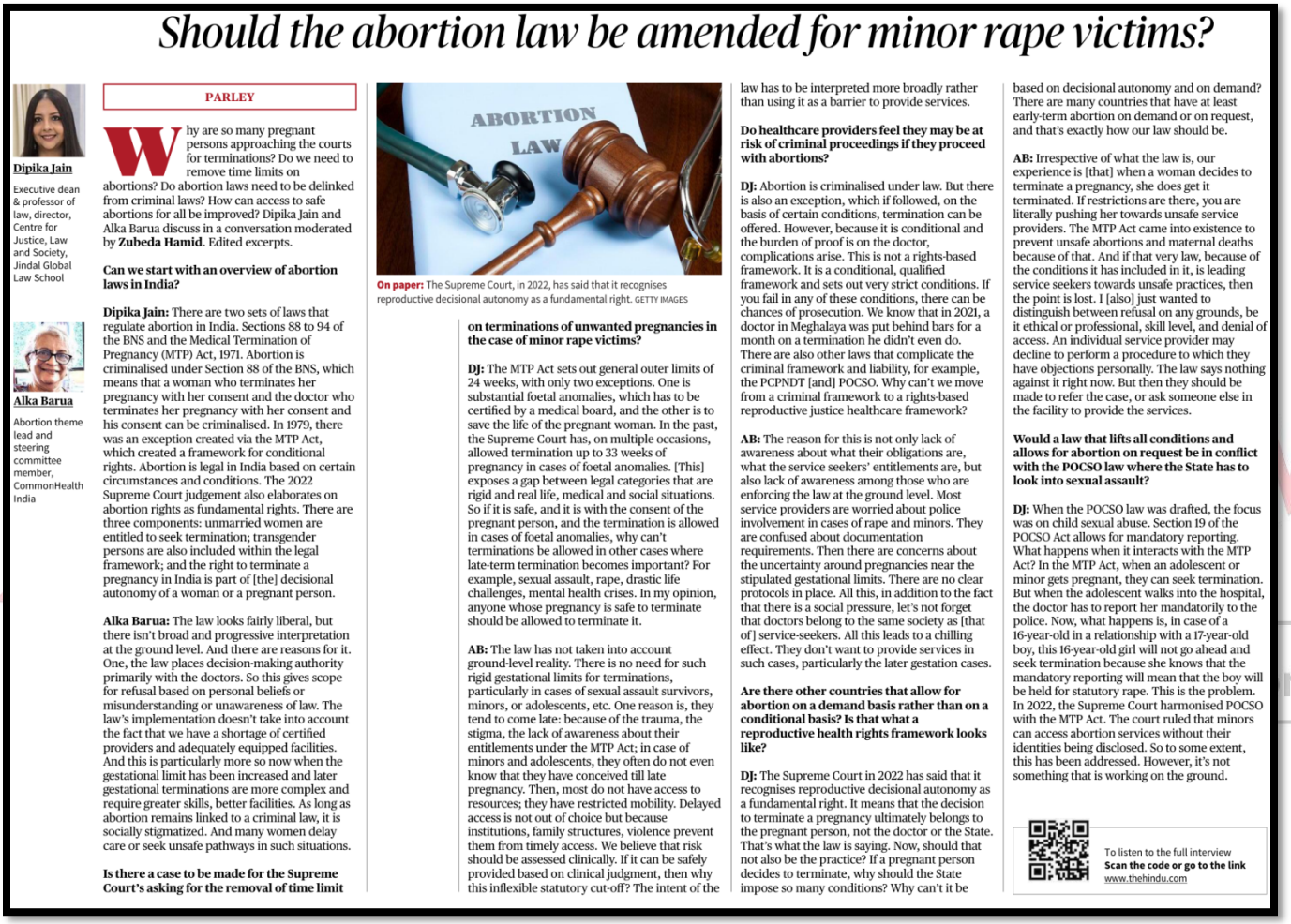
Ans: b)

UPSC Mains Exam Practice Question

Ques: "The Supreme Court's decision to empower District Collectors for enforcing the Solid Waste Management Rules, 2026 reflects judicial activism aimed at overcoming governance deficits."Critically examine.**(150 Words)**

Page 09:GS II :Governance/ Prelims Exam

The debate surrounding abortion laws for minor rape victims in India centers on the tension between the **Medical Termination of Pregnancy (MTP) Act** and the **Bharatiya Nyaya Sanhita (BNS)**. While the legal framework is often termed "liberal," significant barriers remain for the most vulnerable.



Should the abortion law be amended for minor rape victims?

Dipika Jain
Executive dean & professor of law, director, Centre for Justice, Law and Society, Jindal Global Law School

Alka Barua
Abortion theme lead and steering committee member, CommonHealth India

PARLEY

Why are so many pregnant persons approaching the courts for terminations? Do we need to remove time limits on abortions? Do abortion laws need to be delinked from criminal laws? How can access to safe abortions for all be improved? Dipika Jain and Alka Barua discuss in a conversation moderated by **Zubeda Hamid**. Edited excerpts.

Can we start with an overview of abortion laws in India?

Dipika Jain: There are two sets of laws that regulate abortion in India. Sections 88 to 94 of the BNS and the Medical Termination of Pregnancy (MTP) Act, 1971. Abortion is criminalised under Section 88 of the BNS, which means that a woman who terminates her pregnancy with her consent and the doctor who terminates her pregnancy with her consent and his consent can be criminalised. In 1979, there was an exception created via the MTP Act, which created a framework for conditional rights. Abortion is legal in India based on certain circumstances and conditions. The 2022 Supreme Court judgement also elaborates on abortion rights as fundamental rights. There are three components: unmarried women are entitled to seek termination; transgender persons are also included within the legal framework; and the right to terminate a pregnancy in India is part of [the] decisional autonomy of a woman or a pregnant person.

Alka Barua: The law looks fairly liberal, but there isn't broad and progressive interpretation at the ground level. And there are reasons for it. One, the law places decision-making authority primarily with the doctors. So this gives scope for refusal based on personal beliefs or misunderstanding or unawareness of law. The law's implementation doesn't take into account the fact that we have a shortage of certified providers and adequately equipped facilities. And this is particularly more so now when the gestational limit has been increased and later gestational terminations are more complex and require greater skills, better facilities. As long as abortion remains linked to a criminal law, it is socially stigmatized. And many women delay care or seek unsafe pathways in such situations.

Is there a case to be made for the Supreme Court's asking for the removal of time limit on terminations of unwanted pregnancies in the case of minor rape victims?

On paper: The Supreme Court, in 2022, has said that it recognises reproductive decisional autonomy as a fundamental right. GETTY IMAGES

DJ: The MTP Act sets out general outer limits of 24 weeks, with only two exceptions. One is substantial foetal anomalies, which has to be certified by a medical board, and the other is to save the life of the pregnant woman. In the past, the Supreme Court has, on multiple occasions, allowed termination up to 33 weeks of pregnancy in cases of foetal anomalies. [This] exposes a gap between legal categories that are rigid and real life, medical and social situations. So if it is safe, and it is with the consent of the pregnant person, and the termination is allowed in cases of foetal anomalies, why can't terminations be allowed in other cases where late-term termination becomes important? For example, sexual assault, rape, drastic life challenges, mental health crises. In my opinion, anyone whose pregnancy is safe to terminate should be allowed to terminate it.

AB: The law has not taken into account ground-level reality. There is no need for such rigid gestational limits for terminations, particularly in cases of sexual assault survivors, minors, or adolescents, etc. One reason is, they tend to come late: because of the trauma, the stigma, the lack of awareness about their entitlements under the MTP Act; in case of minors and adolescents, they often do not even know that they have conceived till late pregnancy. Then, most do not have access to resources; they have restricted mobility. Delayed access is not out of choice but because institutions, family structures, violence prevent them from timely access. We believe that risk should be assessed clinically. If it can be safely provided based on clinical judgment, then why this inflexible statutory cut-off? The intent of the law has to be interpreted more broadly rather than using it as a barrier to provide services.

Do healthcare providers feel they may be at risk of criminal proceedings if they proceed with abortions?

DJ: Abortion is criminalised under law. But there is also an exception, which if followed, on the basis of certain conditions, termination can be offered. However, because it is conditional and the burden of proof is on the doctor, complications arise. This is not a rights-based framework. It is a conditional, qualified framework and sets out very strict conditions. If you fail in any of these conditions, there can be chances of prosecution. We know that in 2021, a doctor in Meghalaya was put behind bars for a month on a termination he didn't even do. There are also other laws that complicate the criminal framework and liability, for example, the PCPNDT [and] POCSO. Why can't we move from a criminal framework to a rights-based reproductive justice healthcare framework?

AB: The reason for this is not only lack of awareness about what their obligations are, what the service seekers' entitlements are, but also lack of awareness among those who are enforcing the law at the ground level. Most service providers are worried about police involvement in cases of rape and minors. They are confused about documentation requirements. Then there are concerns about the uncertainty around pregnancies near the stipulated gestational limits. There are no clear protocols in place. All this, in addition to the fact that there is a social pressure, let's not forget that doctors belong to the same society as [that of] service-seekers. All this leads to a chilling effect. They don't want to provide services in such cases, particularly the later gestation cases.

Are there other countries that allow for abortion on a demand basis rather than on a conditional basis? Is that what a reproductive health rights framework looks like?

DJ: The Supreme Court in 2022 has said that it recognises reproductive decisional autonomy as a fundamental right. It means that the decision to terminate a pregnancy ultimately belongs to the pregnant person, not the doctor or the State. That's what the law is saying. Now, should that not also be the practice? If a pregnant person decides to terminate, why should the State impose so many conditions? Why can't it be based on decisional autonomy and on demand? There are many countries that have at least early-term abortion on demand or on request, and that's exactly how our law should be.

AB: Irrespective of what the law is, our experience is [that] when a woman decides to terminate a pregnancy, she does get it terminated. If restrictions are there, you are literally pushing her towards unsafe service providers. The MTP Act came into existence to prevent unsafe abortions and maternal deaths because of that. And if that very law, because of the conditions it has included in it, is leading service seekers towards unsafe practices, then the point is lost. I [also] just wanted to distinguish between refusal on any grounds, be it ethical or professional, skill level, and denial of access. An individual service provider may decline to perform a procedure to which they have objections personally. The law says nothing against it right now. But then they should be made to refer the case, or ask someone else in the facility to provide the services.

Would a law that lifts all conditions and allows for abortion on request be in conflict with the POCSO law where the State has to look into sexual assault?

DJ: When the POCSO law was drafted, the focus was on child sexual abuse. Section 19 of the POCSO Act allows for mandatory reporting. What happens when it interacts with the MTP Act? In the MTP Act, when an adolescent or minor gets pregnant, they can seek termination. But when the adolescent walks into the hospital, the doctor has to report her mandatorily to the police. Now, what happens is, in case of a 16-year-old in a relationship with a 17-year-old boy, this 16-year-old girl will not go ahead and seek termination because she knows that the mandatory reporting will mean that the boy will be held for statutory rape. This is the problem. In 2022, the Supreme Court harmonised POCSO with the MTP Act. The court ruled that minors can access abortion services without their identities being disclosed. So to some extent, this has been addressed. However, it's not something that is working on the ground.

To listen to the full interview
Scan the code or go to the link
www.thehindu.com

The Current Legal Framework

Abortion in India is not a "right on demand" but a **conditional right**.

- **The BNS (formerly IPC):** Sections 88 to 94 criminalize abortion. It is only legal if it falls under the exceptions carved out by the **MTP Act, 1971**.
- **Gestational Limits:** Generally, abortion is permitted up to **24 weeks** for special categories (including rape survivors and minors). Beyond 24 weeks, it is only allowed in cases of substantial fetal anomalies or to save the life of the mother.

- **The 2022 Supreme Court Ruling:** The Court recognized **reproductive autonomy** as a fundamental right under Article 21, including unmarried women and transgender persons in the MTP framework.

Why Minor Rape Victims Face Unique Hurdles

Experts argue that the rigid **24-week limit** fails minor survivors for several reasons:

- **Delayed Discovery:** Minors often do not recognize the physical signs of pregnancy or are in denial due to trauma, leading to "late-term" detection.
- **Structural Barriers:** Lack of resources, restricted mobility, and the social stigma of sexual assault often delay their arrival at a healthcare facility.
- **The "Chilling Effect" on Doctors:** Because abortion is still linked to criminal law, doctors fear prosecution if they misinterpret gestational limits or fail to follow strict procedural conditions.

The Conflict Between POCSO and MTP

A major deterrent for minors is **Section 19 of the POCSO Act**, which mandates the reporting of all sexual activity involving minors to the police.

- **The Conflict:** A minor seeking an abortion might avoid professional medical help to protect a partner (in cases of consensual adolescent relationships) or to avoid the trauma of a police investigation.
- **The Judicial Fix:** In 2022, the Supreme Court ruled that doctors could perform abortions on minors without disclosing their identity in certain contexts to protect privacy, yet implementation at the ground level remains inconsistent.

Proposed Reforms: Toward a Rights-Based Framework

The conversation is shifting from a **conditional framework** to a **reproductive justice framework**:

- **Removing Time Limits:** Arguments suggest that if a termination is clinically safe, statutory cut-offs should not apply to rape survivors and minors, as "delayed access is not a choice."
- **Decriminalization:** Delinking abortion from criminal law (BNS) would reduce stigma and prevent the "defensive medicine" practiced by doctors who refuse services out of fear.
- **Decisional Autonomy:** Shifting the power from the "doctor's opinion" to the "pregnant person's choice," aligning with the Supreme Court's recognition of autonomy.

Conclusion

The current struggle highlights a gap between **progressive judicial pronouncements** and **restrictive statutory limits**. For minor rape victims, the law often acts as a second trauma by forcing them to approach courts for permission once the 24-week

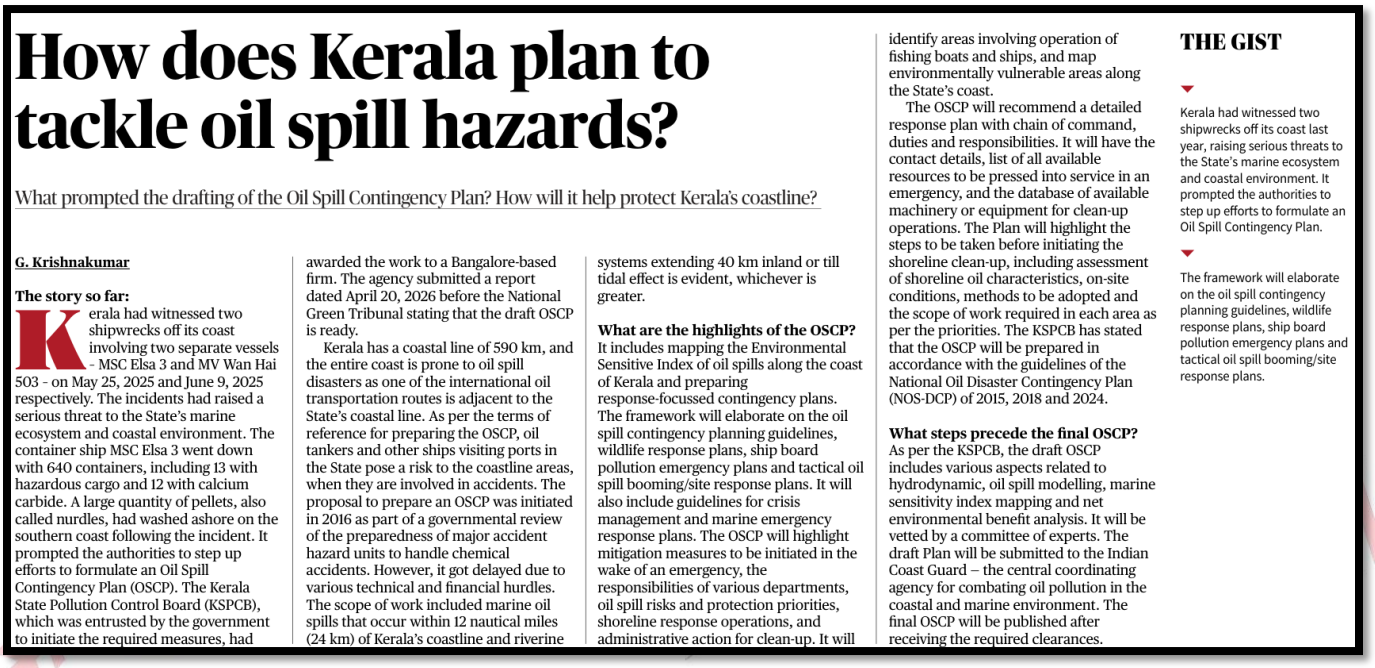
window closes. Moving toward an "on-request" system, especially in early gestation, and providing flexible clinical assessments for late-term cases could prevent the dangerous shift toward unsafe, clandestine abortions.

UPSC Mains Exam Practice Question

Ques: Discuss the role of the judiciary in expanding reproductive rights in India. How far have judicial pronouncements bridged the gap between reproductive autonomy and statutory restrictions?(**150 Words)**

Page 10:GS III : Environment / Prelims Exam

Kerala's strategy to mitigate oil spill hazards is centered on the newly drafted **Oil Spill Contingency Plan (OSCP)**, a comprehensive framework designed to safeguard its 590 km coastline. This plan marks a transition from reactive measures to a structured, scientific, and proactive disaster management system.



How does Kerala plan to tackle oil spill hazards?

What prompted the drafting of the Oil Spill Contingency Plan? How will it help protect Kerala's coastline?

G. Krishnakumar

The story so far:

Kerala had witnessed two shipwrecks off its coast involving two separate vessels – MSC Elsa 3 and MV Wan Hai 503 - on May 25, 2025 and June 9, 2025 respectively. The incidents had raised a serious threat to the State's marine ecosystem and coastal environment. The container ship MSC Elsa 3 went down with 640 containers, including 13 with hazardous cargo and 12 with calcium carbide. A large quantity of pellets, also called nurdles, had washed ashore on the southern coast following the incident. It prompted the authorities to step up efforts to formulate an Oil Spill Contingency Plan (OSCP). The Kerala State Pollution Control Board (KSPCB), which was entrusted by the government to initiate the required measures, had awarded the work to a Bangalore-based firm. The agency submitted a report dated April 20, 2026 before the National Green Tribunal stating that the draft OSCP is ready.

Kerala has a coastal line of 590 km, and the entire coast is prone to oil spill disasters as one of the international oil transportation routes is adjacent to the State's coastal line. As per the terms of reference for preparing the OSCP, oil tankers and other ships visiting ports in the State pose a risk to the coastline areas, when they are involved in accidents. The proposal to prepare an OSCP was initiated in 2016 as part of a governmental review of the preparedness of major accident hazard units to handle chemical accidents. However, it got delayed due to various technical and financial hurdles. The scope of work included marine oil spills that occur within 12 nautical miles (24 km) of Kerala's coastline and riverine systems extending 40 km inland or till tidal effect is evident, whichever is greater.

What are the highlights of the OSCP?

It includes mapping the Environmental Sensitive Index of oil spills along the coast of Kerala and preparing response-focussed contingency plans. The framework will elaborate on the oil spill contingency planning guidelines, wildlife response plans, ship board pollution emergency plans and tactical oil spill booming/site response plans. It will also include guidelines for crisis management and marine emergency response plans. The OSCP will highlight mitigation measures to be initiated in the wake of an emergency, the responsibilities of various departments, oil spill risks and protection priorities, shoreline response operations, and administrative action for clean-up. It will identify areas involving operation of fishing boats and ships, and map environmentally vulnerable areas along the State's coast.

The OSCP will recommend a detailed response plan with chain of command, duties and responsibilities. It will have the contact details, list of all available resources to be pressed into service in an emergency, and the database of available machinery or equipment for clean-up operations. The Plan will highlight the steps to be taken before initiating the shoreline clean-up, including assessment of shoreline oil characteristics, on-site conditions, methods to be adopted and the scope of work required in each area as per the priorities. The KSPCB has stated that the OSCP will be prepared in accordance with the guidelines of the National Oil Disaster Contingency Plan (NOS-DCP) of 2015, 2018 and 2024.

What steps precede the final OSCP?

As per the KSPCB, the draft OSCP includes various aspects related to hydrodynamic, oil spill modelling, marine sensitivity index mapping and net environmental benefit analysis. It will be vetted by a committee of experts. The draft Plan will be submitted to the Indian Coast Guard – the central coordinating agency for combating oil pollution in the coastal and marine environment. The final OSCP will be published after receiving the required clearances.

THE GIST

Kerala had witnessed two shipwrecks off its coast last year, raising serious threats to the State's marine ecosystem and coastal environment. It prompted the authorities to step up efforts to formulate an Oil Spill Contingency Plan.

The framework will elaborate on the oil spill contingency planning guidelines, wildlife response plans, ship board pollution emergency plans and tactical oil spill booming/site response plans.

What prompted the drafting of the OSCP?

While the proposal was initially discussed in 2016, two major maritime disasters in **2025** served as the immediate catalysts:

- **MSC Elsa 3 (May 25, 2025):** The vessel sank with 640 containers, including hazardous cargo and calcium carbide. A massive influx of plastic pellets (**nurdles**) washed ashore, highlighting the vulnerability of the southern coast.
- **MV Wan Hai 503 (June 9, 2025):** Another shipwreck within weeks underscored the persistent threat posed by international oil transportation routes adjacent to Kerala's waters.

These incidents forced the **Kerala State Pollution Control Board (KSPCB)** to fast-track the plan, which was formally presented in draft form to the National Green Tribunal in April 2026.

Highlights of the Contingency Plan

The OSCP is designed in alignment with the **National Oil Disaster Contingency Plan (NOS-DCP)** and focuses on three core pillars:

A. Mapping and Risk Assessment

- **Environmental Sensitive Index (ESI):** Mapping the entire coastline to identify vulnerable ecosystems (mangroves, coral reefs, and biodiversity hotspots).
- **Hydrodynamic Modeling:** Using math-based simulations to predict how oil will spread based on currents and weather.
- **Resource Database:** A detailed inventory of machinery, equipment, and contact details for emergency responders.

B. Response Strategies

- **Tactical Booming:** Specific site-response plans for placing oil booms to contain spills.
- **Shoreline Response:** Guidelines for assessing oil characteristics and site conditions before initiating clean-up.
- **Wildlife Protection:** Dedicated protocols for rescuing and rehabilitating marine life affected by spills.

C. Command and Control

- **Chain of Command:** Clearly defined duties for various government departments to prevent administrative confusion during a crisis.
- **Crisis Management:** Guidelines for shipboard pollution emergencies and inland riverine systems (extending 40 km inland).

How will it protect Kerala's coastline?

The OSCP provides a "shield" through **decentralized preparedness** and **scientific precision**:

1. **Uniformity:** It ensures that every district along the 590 km coast follows the same high-standard protocol, vetted by the **Indian Coast Guard**.
2. **Early Intervention:** By identifying high-risk areas (fishing zones and shipping lanes), authorities can deploy resources *before* a spill hits the shore.
3. **Net Environmental Benefit Analysis (NEBA):** This ensures that clean-up methods do not cause more harm to the environment than the oil itself.

Conclusion

The Kerala OSCP is a vital administrative tool that bridges the gap between the state's high maritime traffic and its ecological fragility. By integrating **digital modeling** with a **clear chain of command**, the state aims to ensure that the "man-made destruction" witnessed in 2025 is never repeated without a swift, coordinated response.

UPSC Prelims Exam Practice Question

Ques:**The Environmental Sensitive Index (ESI), often seen in coastal management, is primarily used for:**

(a) Measuring the salinity of seawater

(b) Identifying ecologically vulnerable coastal areas

(c) Assessing the commercial value of fisheries

(d) Mapping exclusive economic zones

Ans: b)

UPSC Mains Exam Practice Question

Ques: Examine the significance of scientific tools such as hydrodynamic modeling and Environmental Sensitive Index (ESI) mapping in coastal disaster management.**(150 Words)**

Page :10 :GS II : Indian Polity / Prelims Exam

The intersection of **legal fiction** and **political party mergers** under the Tenth Schedule of the Constitution represents a critical conflict between judicial doctrine and political practice. As the Supreme Court reaffirmed in **March 2026**, a legal fiction is a specific tool that cannot be stretched beyond its "legitimate field."

Scope of legal fiction in party mergers

Henry Maine called legal fiction an agency by which law adapts to changing societies. In the Indian context, a 1955 ruling delineating the scope of legal fiction, reaffirmed by the Supreme Court in March, sets limits that the law on defections has yet to absorb.

LETTER AND SPIRIT

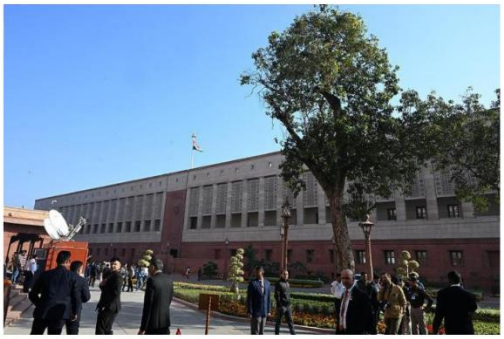
V. Venkatesan

The law has a long-standing habit of pretending: that an adopted child is the natural child of the adoptive parents, that a registered company is a person capable of suing and being sued. Sir Henry Maine, in *Ancient Law* (1861), called the legal fiction one of three great agencies, alongside equity and legislation, by which law adapts to changing societies.

The device has not been universally welcomed; historically, jurists worried that fictions allowed judges to make law in disguise. Lon Fuller, in his Stanford monograph *Legal Fictions* (1967), laid down the modern test: a fiction is honest only when its falsity is openly acknowledged; once it is "taken seriously", once people begin to treat the pretence as fact, it loses its utility and becomes dangerous. A fiction is a tool, fashioned for a defined end, and works only within that end.

On legal fiction in India

In Indian constitutional law, the leading authority on this discipline is *Bengal Immunity Co. Ltd. vs State of Bihar* (1955), decided by a seven-judge Constitution Bench. The case concerned a Calcutta-based company that manufactured vaccines and sera and sold them to buyers in Bihar; Bihar sought to tax those sales by relying on a deeming clause then attached to Article 286(1) of the Constitution, which treated a sale as having taken place in the State where the goods were delivered for consumption. The Court rejected Bihar's argument, holding that the deeming clause served only to fix the location of a sale for one purpose and could not be stretched to override the separate constitutional bar on State taxation of inter-State trade. Acting Chief Justice S.R. Das laid down the formulation that has since governed: a legal fiction is created for a definite purpose, must be limited to that purpose, and must not be extended beyond its legitimate field.



In April, the Rajya Sabha Chairman accepted the merger of seven AAP MPs with BJP. SUSHIL KUMAR VERMA

A complementary discipline came from Lord Asquith of the House of Lords in *East End Dwellings Co. Ltd. vs Finsbury Borough Council* (1952): one must imagine the necessary consequences of the fiction, but must not let imagination "boggle" beyond them. The Indian Supreme Court adopted that formulation in *J.K. Cotton Spinning and Weaving Mills Ltd. vs Union of India* (1987), confining a deeming fiction in the Central Excise Rules to its stated purpose.

That this discipline remains current was reaffirmed on March 10, 2026, in *Registrar Cane Cooperative Societies vs Gurdeep Singh Narval* by the Supreme Court. The case concerned two sugarcane growers' cooperative societies, Bajpur and Gadarpur, whose villages had fallen partly in Uttar Pradesh and partly in Uttarakhand after the new State was carved out of Uttar Pradesh in 2000. Years later, a member of the Bajpur society argued that his society had automatically become a "Multi-State" cooperative society on the date of bifurcation by virtue of a deeming clause in Section 103 of the Multi-State Cooperative Societies Act, 2002. Justices P.S. Narasimha and Alok Aradhe rejected the argument. The deeming fiction in Section 103 had a defined purpose: to govern societies whose stated objects extended to more than one State. It could not be extended to undo a completed reorganisation of societies whose objects were confined to a single State. The case was about cooperative societies; the principle it applied governs every deeming clause in every statute.

The merger of political parties

Among the deeming clauses of political consequence is paragraph 4(2) of the Tenth Schedule of the Constitution (on disqualification for defection). Paragraph 4 protects legislators when their original political party merges with another and two-thirds of the legislature party agree to it.

The merger of the original party is the substantive condition; the legislative threshold is the verifying count. Paragraph 4(2) provides that a merger "shall be deemed to have taken place if, and only if" the two-thirds is met. Read against the *Bengal Immunity* case, these words tell the adjudicator how to verify a merger that has happened in the original political party, not that the legislators' assent is itself the merger.

That distinction was settled, on a parallel clause, by a 2007 Constitution Bench in *Rajendra Singh Rana vs Swami Prasad Maurya*. The argument that a legislature-party threshold could itself satisfy the substantive event in the original party would, the Court said, render one limb of the clause redundant. The court rejected it, holding further that the Speaker has no independent power under the Tenth Schedule to recognise either a split or a merger. The Punjab and Haryana High Court applied this in *Speaker, Haryana Vidhan Sabha vs Kuldeep Bishnoi* (2011): legislators alone cannot effect a merger; the original political party itself must take the substantive decision.

Recent practice, however, has allowed distortions. The Bombay High Court (Goa Bench) has twice upheld merger orders based solely on a two-thirds resolution of legislators, in 2022 and January 2025; the latter is under challenge before the Supreme Court. In April, the Rajya Sabha Chairman accepted, by administrative decision, the merger of seven Aam Aadmi Party MPs with the BJP on the same reading. A disqualification petition by the AAP has been filed. *Bengal Immunity* and *Rana*, read together, would have arrived at the opposite conclusion.

The reason is doctrinal. A deeming clause read as constitutive ceases to be a fiction. It becomes a substantive grant of power: the power of a faction of legislators to declare a merger that the parent political party has not authorised. That is the danger Fuller named and acting Chief Justice Das addressed when he confined legal fictions to their definite purpose.

(V. Venkatesan is a journalist and legal researcher.)

THE GIST

- Among the deeming clauses of political consequence is paragraph 4(2) of the Tenth Schedule of the Constitution. It protects legislators when their original political party merges with another and two-thirds of the legislature party agree to it.
- The Bombay High Court (Goa Bench) has twice upheld merger orders based solely on a two-thirds resolution of legislators. In April, the Rajya Sabha Chairman accepted the merger of seven Aam Aadmi Party MPs with the BJP on the same reading.

What is Legal Fiction?

In jurisprudence, a **legal fiction** is a tool that allows the law to treat a non-factual scenario as true to achieve a specific legal outcome.

- **The Utility:** It bridges the gap between static laws and evolving social realities (e.g., treating a corporation as a "person").

- **The Safeguard:** As argued by Lon Fuller and Sir Henry Maine, a fiction is only healthy if its falsity is acknowledged. If a "pretence" is treated as absolute fact, the law becomes distorted.

The "Bengal Immunity" Doctrine: Setting the Boundary

The 1955 case of Bengal Immunity Co. Ltd. vs State of Bihar established the "gold standard" for interpreting legal fictions in India.

The Governing Principles

1. **Limited Purpose:** A legal fiction is created for a specific, defined reason.
2. **Strict Confinement:** It cannot be extended beyond its intended field.
3. **The "Boggle" Rule:** Based on Lord Asquith's 1952 formulation, while we must imagine the consequences of a fiction, we must not let our imagination "boggle" (overreach) into unintended territory.

The March 2026 Ruling: Registrar Cooperative Societies vs Gurdeep Singh Narval

The Supreme Court recently reaffirmed these boundaries. The court ruled that a "deeming clause" (a clause stating something "shall be deemed" to be true) cannot be used to rewrite history or undo state reorganizations.

- **The Context:** Sugarcane societies split between UP and Uttarakhand.
- **The Verdict:** Justices Narasimha and Aradhe held that a deeming clause meant to manage "objects" across states could not be used to "deem" a society into a multi-state entity if its core purpose was restricted to a single state.

Critical Application: Anti-Defection and Party Mergers

The most contentious application of this doctrine involves **Paragraph 4 of the Tenth Schedule** (the Anti-Defection Law).

The Conflict: Merger vs. Assent

Element	Reality	The Legal Fiction (Para 4[2])
Substantive Event	The Original Political Party decides to merge.	The merger is "deemed" to have happened...
Verification	Two-thirds of the Legislators agree to it.	...if, and only if, 2/3rds of the legislators agree.

The "Doctrinal Danger"

Recent controversies (such as the **April 2026 AAP-BJP Rajya Sabha decision**) suggest a shift in interpretation. If the "deeming clause" is read as **constitutive** (the legislators' vote creates the merger) rather than **evidentiary** (the vote proves a prior party merger), the fiction is being misused.

The Core Risk: If a faction of legislators can "deem" a merger into existence without the parent party's consent, the legal fiction has been stretched beyond its legitimate field—effectively granting legislators the power to hijack political parties.

Conclusion

The 2026 judicial trends signal a return to **strict constructionism**. By invoking the **Bengal Immunity Doctrine**, the courts are attempting to prevent "deeming clauses" from becoming tools of political convenience, ensuring that legal fictions remain a means of justice rather than a mask for power grabs.

UPSC Prelims Exam Practice Question

Ques: Consider the following statements regarding the Tenth Schedule:

1. It seeks to curb political defections motivated by office or reward.

2. A merger under Paragraph 4 requires support of at least two-thirds of legislators of a party.

3. The Tenth Schedule completely bars judicial review of the Speaker's decision.

Which of the statements given above are correct?

(a) 1 and 2 only

(b) 2 and 3 only

(c) 1 and 3 only

(d) 1, 2 and 3

Ans: a)

UPSC Mains Exam Practice Question

Ques: Examine the significance of the doctrine of legal fiction in constitutional interpretation. How has the judiciary attempted to restrict its misuse?**(250 Words)**

Page 12:GS III :Indian Economy / Prelims Exam

The India-European Union (EU) Free Trade Agreement (FTA), concluded in principle in **January 2026**, represents a watershed moment in trade diplomacy. Dubbed the "mother of all deals," it covers a market of nearly **two billion people** and approximately **25% of global GDP**. However, as EU Ambassador Hervé Delphin recently cautioned, the "devil is in the detail" regarding compliance and missing investment protections.

'Compliance norms could derail EU FTA deal benefits'

Calling the agreement the 'mother of all deals', EU's Ambassador to India Hervé Delphin says it is, however, missing a chapter on investments; the deal could be implemented by early 2027, he says

T.C.A. Sharad Raghavan
NEW DELHI

Conditions apply: Conformity requirements should serve the purpose and not be barriers, said Mr. Delphin. BY ARRANGEMENT

While hailing the India-European Union (EU) Free Trade Agreement (FTA) as creating a joint market comprising one quarter of global Gross Domestic Product (GDP), the EU's ambassador to India Hervé Delphin also struck a note of caution over regulatory hurdles and "unfinished business" that could overshadow the benefits of the deal.

Speaking at an event organised by the Federation of European Business in India, Mr. Delphin also said that the FTA would likely be implemented in "early 2027", a timeline that sources in the Indian government also confirm.

Negotiations on the FTA were concluded in January this year.

"Both sides must ensure that the agreement is implemented smoothly and in good faith," he said. "For this to materialise, we need to align on a pro-FTA mindset and approach across our systems: customs procedures or conformity requirements should serve their purpose and not be used as trade barriers."

"If administrative procedures are too burdensome businesses may consider that cost of compliance outweighs the benefits of preferential tariffs, in which case the FTA potential would be lost," Mr. Delphin added. "That would be a missed opportunity."

Speaking a little more about the opportunity created by the FTA, the Ambassador said that the agreement would create a free trade zone covering nearly two billion people and a quarter of global GDP. "It will be the largest FTA ever signed by either side. For all these reasons it has been rightly billed the 'mother of all deals," he said.

However, he also pointed out some of the shortcomings in the deal.

"The FTA does not cover all relevant areas," he said. "We need to look at 'unfinished business' and 'beyond FTA'. Investment is the main case in point... There is regrettably no FTA chapter on investment liberalisation in non-services sectors, which would have given investors more assurance and predictability."

The "Mother of All Deals": Key Scale

The FTA is the largest ever signed by either party. Its impact is expected to be transformative:

- **Combined Market:** Connects 1.45 billion people in India with the EU's high-value consumer base.
- **Tariff Reductions:** The EU will slash duties on over **99% of Indian goods**, while India will provide enhanced access for nearly **97% of EU exports**.
- **Target Growth:** EU goods exports to India are projected to potentially double by 2032.
- **Implementation Timeline:** Following a "legal vetting" process slated for completion by July 2026, the deal is expected to be signed late this year and fully implemented by **early 2027**.

The Compliance Hurdle: Non-Tariff Barriers

The central warning from Ambassador Delphin is that **burdensome administrative procedures** could neutralize the benefits of duty-free access.

- **Cost of Compliance:** If technical standards, product certifications, and environmental rules are too complex, the cost of meeting them may exceed the savings from lower tariffs—a scenario particularly dangerous for Indian **MSMEs**.
- **Regulatory Alignment:** Delphin emphasized that customs procedures must serve their purpose without becoming "trade barriers in disguise."

"Unfinished Business": The Investment Gap

A significant critique of the current deal is the **absence of an investment liberalization chapter** for non-services sectors.

- **The Issue:** While services are covered, manufacturing and industrial investments lack a specific FTA chapter to provide long-term legal predictability for European firms.
- **The Solution:** A separate **Investment Protection Agreement (IPA)** is being negotiated in parallel. Delphin suggested revisiting the investment chapter two years after the FTA's entry into force via a review clause.
- **Geographical Indications (GIs):** A third track is also underway to protect iconic products like Darjeeling tea or Roquefort cheese, which is vital for the agricultural and luxury sectors.

Addressing the "Carbon Elephant": CBAM

The EU's **Carbon Border Adjustment Mechanism (CBAM)**, which became fully operational in 2026, was a major friction point during negotiations.

- **The Compromise:** Under the FTA, India secured **"Most Favored Nation" treatment** for any flexibilities the EU grants to third countries regarding carbon taxes.
- **Support Framework:** The EU has pledged technical and financial assistance (including a €500 million package) to help Indian steel and aluminum producers decarbonize, though the exact disbursement mechanisms are still under discussion.

Conclusion

The India-EU FTA is a strategic pivot that moves bilateral relations beyond transaction to deep economic integration. While the removal of tariffs provides the opportunity, the ultimate success of the deal will depend on whether both sides can harmonize their **regulatory mindsets**. Without streamlining compliance norms, the "mother of all deals" risks becoming a bureaucratic labyrinth that only the largest corporations can navigate.

UPSC Prelims Exam Practice Question

Ques:The term "non-tariff barriers" in international trade generally refers to:

(a) Export subsidies provided by governments

(b) Customs duties imposed on imports

(c) Regulatory and procedural measures that restrict trade

(d) Currency devaluation to boost exports

Ans: c)

UPSC Mains Exam Practice Question

Ques:"The India–EU Free Trade Agreement marks a strategic deepening of India's engagement with Europe beyond conventional trade relations."Discuss. **(150 Words)**

Openness, not isolation, is the bedrock of the West

Milinda Moragoda

Former Sri Lankan Cabinet Minister, diplomat and the Founder of the Pathfinder Foundation, a strategic affairs think tank

Recent statements from Washington show how global politics is being increasingly framed along civilisational terms. The U.S. Secretary of State Marco Rubio has referred to the idea of a shared "Western civilisation," describing the U.S. and Europe as bound by common history, cultural heritage, and institutional traditions. At the same time, U.S. President Donald Trump has amplified comments about countries such as India, China, and Iran in the context of migration and geopolitical competition that reinforce a tendency to interpret global politics in civilisational terms. Taken together, these statements point to a broader shift: global affairs are being interpreted not only through the language of power and interest, but also through civilisational identities.

The appeal of such framing is understandable. It offers a sense of clarity in an era of rapid technological disruption, demographic change, and geopolitical uncertainty. But apparent clarity is not the same as analytical accuracy. Moreover, it is not an entirely new framing either. As early as the 1990s, political scientist Samuel Huntington had argued that global politics would evolve into a "clash of civilisations," where cultural and religious identities would become the principal fault lines of international relations.

Civilisational explanations can obscure more than they reveal, particularly when they imply that cultural cohesion, rather than institutional adaptability, is the primary source of national strength. A historical record of the modern West suggests otherwise.

A look at history

Much of the West's post-Cold War dynamism has rested not on homogeneity, but on openness – to talent, ideas, capital, and global competitive pressures. Its advantage has been institutional: the capacity to absorb diversity and convert it into innovation within rules-based systems.

The West's advantage lies not only in military alliances or economic scale, but in institutional resilience and its capacity to attract, integrate, and retain talent

Nowhere is this more evident than in today's innovation economy. AI, in particular, has become the defining frontier of global competition, shaped by deeply international talent flows and research ecosystems. Companies such as Microsoft, OpenAI, and NVIDIA exemplify systems in which breakthroughs depend on globally sourced expertise, cross-border collaboration, and the ability to attract the most capable minds regardless of origin.

The COVID-19 pandemic underscored this complementary reality: innovation now operates through globally distributed production systems. Rapid vaccine development and distribution, by firms such as Moderna and AstraZeneca, depended on international research networks and global manufacturing ecosystems. In the case of AstraZeneca, large-scale production through partnerships such as that with the Serum Institute of India illustrated how innovation and industrial capacity now operate across borders.

This is not an argument against immigration control. Immigration must be governed effectively, and civic norms must be upheld. But managing diversity is fundamentally different from retreating from it.

In an era of intensifying geopolitical competition, openness remains a critical strategic asset. The West's advantage lies not only in military alliances or economic scale, but in institutional resilience and its capacity to attract, integrate, and retain talent. Civilisational framing, by contrast, risks misdiagnosing this advantage – privileging identity over capability and boundaries over performance. Demographic realities reinforce this point. Many advanced economies face ageing populations. In this context, immigration is not simply a cultural or political issue, but an economic necessity. Without sustained inflows of skilled labour and human capital, growth slows, fiscal pressures increase, and innovation ecosystems weaken.

Openness as an advantage

The defining challenges of the 21st century – including AI governance and climate change – further highlight the limits of civilisational thinking. These are problems that cannot be addressed within cultural silos. Against this backdrop, framing global politics in terms of civilisational hierarchy carries risks. It encourages a narrowing of identity at precisely the moment when cooperation and adaptability are essential.

The question, therefore, is not whether identity matters. It clearly does. Societies require shared norms, institutional trust, and continuity. The more important question is whether democracies can manage change without losing confidence in the openness that has sustained their development. The strength of the West has historically rested on its ability to combine stability with adaptation – to absorb new influences while preserving core principles such as the rule of law, individual liberty, and accountable governance.

Therefore, the policy challenge ahead is not to retreat into notions of cultural purity, but to govern openness with clarity and purpose. This requires strengthening integration frameworks and reinforcing institutional trust. It also requires recognising that engagement with other civilisational spaces is not a concession, but a necessity in a globally interconnected world.

In a world of intensifying geopolitical rivalry, it may be tempting to define strength in narrower terms. But doing so risks undermining one of the West's most important strategic assets. Openness – disciplined, governed, and anchored in strong institutions – is not a vulnerability. It is a source of sustained advantage.

GS PaperII:International Relations

UPSC Mains Exam Practice Question:"The growing use of civilizational rhetoric in global politics reflects a shift from interest-based geopolitics to identity-based geopolitics."Critically examine.**(250 Words)**

Context : In his analysis, Milinda Moragoda argues that the current shift toward "civilizational framing" in Western politics—exemplified by recent rhetoric from U.S. officials—misdiagnoses the true source of Western strength. He contends that the West's post-Cold War dynamism is rooted not in cultural homogeneity, but in **institutional openness**.

The Rise of Civilizational Rhetoric

Moragoda identifies a shift in global discourse where geopolitics is increasingly interpreted through the lens of identity rather than just interest.

- **The "Clash of Civilisations" Redux:** He references Samuel Huntington's 1990s thesis, noting that modern leaders are again using cultural and religious identities as the primary fault lines of international relations.
- **The Trap of Clarity:** While this framing offers a "sense of clarity" amid rapid change (AI, migration, demographic shifts), Moragoda warns that this clarity is analytically inaccurate and strategically dangerous.

Openness as a Strategic Asset

The core of the West's advantage, per the author, is its **capacity to absorb diversity** and convert it into innovation through rules-based systems.

- **The Innovation Economy:** Breakthroughs in AI (Microsoft, OpenAI, NVIDIA) rely on globally sourced expertise. The West's edge lies in its ability to attract the "most capable minds regardless of origin."
- **Pandemic Lessons:** The rapid development of vaccines (e.g., AstraZeneca's partnership with the **Serum Institute of India**) demonstrated that modern industrial capacity and innovation operate through globally distributed, cross-border networks.
- **Demographic Necessity:** With aging populations, advanced economies require immigration not just for cultural reasons, but as a structural economic necessity to sustain growth and fiscal health.

The Limits of "Civilizational Silos"

Moragoda argues that the defining challenges of the 21st century—**AI governance and climate change**—cannot be solved within cultural silos.

- **Identity vs. Capability:** Civilizational framing risks privileging identity over performance.
- **The Policy Challenge:** The goal should not be a retreat into "cultural purity" but rather the **governed management of openness**. This involves strengthening integration frameworks and institutional trust rather than closing borders.

Analysis for UPSC: Themes of Global Governance

For a civil services perspective, this article touches upon several critical themes:

Theme	Relevance
International Relations	The shift from "Realism" (power/interest) to "Constructivism" (identity/civilization).

Theme	Relevance
Globalization	The tension between globalized production/innovation and the rise of protectionist/nativist politics.
Demography	The "Pull Factor" of migration for developed economies facing labor shortages.
Technology Policy	The reliance of frontier tech (AI, Space) on a borderless flow of human capital.

Conclusion

Moragoda concludes that **openness is not a vulnerability; it is a source of sustained advantage.** For the West—and by extension, other global democracies—the ability to combine stability with adaptation remains the ultimate competitive edge. Retreating into narrow civilizational definitions risks undermining the very institutions (rule of law, accountable governance) that allow these societies to integrate and thrive.