

MOST IMPORTANT TOPICS

1. PRAVASI BHARATIYA DIVAS  PRELIMS, GS-1
2. BILKIS BANO CASE  GS-2, PRELIMS
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PRELIMS PRACTICE QUESTION

Q. Consider the following statements regarding the Kochi-Lakshadweep Islands Submarine Optical Fibre Connection (KLI-SOFC) project.

1. The project involves extending submarine cable connectivity from the mainland (Kochi) to eleven Lakshadweep Islands.
2. It has been funded by the Universal Services Obligation Fund.

Select the correct codes.

- A. 1 only.
- B. 2 only.
- C. Both 1 and 2
- D. Neither of them.

PRELIMS PRACTICE QUESTION

Q. Consider the following statements about Chilika Lake:

1. It is a Sweet Water Lake situated in Odisha
2. Chilika Lake was designated the first Indian wetland of international importance under the Ramsar Convention

Which of the above statement/s is/are correct?

- A. Only 1
- B. Only 2
- C. Both 1 and 2
- D. Neither 1 nor 2

PRAVASI BHARATIYA DIVAS



CONTEXT

- **Pravasi Bharatiya Divas** (PBD) is celebrated annually on **January 9th** to mark the contribution of the **Overseas Indian community** in the development of India.
- The date January 9th was chosen as it was on this day in **1915** that **Mahatma Gandhi**, the **greatest Pravasi** returned to **India** from **South Africa** and led India's freedom struggle.



- Since 2015, the format has been revised to celebrate PBD once every two years and to hold theme-based events.
- The event is organized by the Ministry of External Affairs, Government of India along with the Confederation of Indian Industry (CII).

- The occasion is marked by special programs to recognize the contributions of **Non-Resident Indian** (NRI) and **Person of Indian Origin** (PIO) individuals, felicitate exceptional contributors in their chosen fields and provide a **forum** to discuss issues and **concerns** of the **diaspora**.

PERSON OF INDIAN ORIGIN

- A **Person of Indian Origin (PIO)** is a **foreign citizen, except** for nationals of **Pakistan, Afghanistan, Bangladesh,** China, Iran, Bhutan, Sri Lanka and Nepal, who at any time held an **Indian passport** or whose parents, grandparents or great-grandparents were **born** and **permanently resident** in **India**.



- PIO's can apply for a PIO card, which exempts them from requiring a visa to visit India for 15 years from the date of issue of the card.
- The PIO card has been merged into the Overseas Citizenship of India (OCI) card since 2014.

- Parity with NRI's: PIO card holders enjoy parity with Non-Resident Indians (NRIs) in economic, financial and educational benefits.
- This includes the acquisition, holding, transfer and disposal of immovable properties in India (except agricultural/plantation properties), admission of children to educational institutions in India under the general category quota for NRIs, and availing various housing schemes.

BILKIS BANO CASE

Justice for Bilkis Bano, questions on remission

In an article in *The Hindu* (August 20, 2022), I had characterised the grant of remission to the 11 gang-rape and murder convicts in the Bilkis Bano case as an 'injustice of exceptionalism'. The exceptional nature of this injustice is only exemplified by the Supreme Court of India's judgment in the case delivered by Justices J.V. Narayana and Ujjal Bhuyan. As the decision notes, not only did one of the petitioners commit "fraud" by misleading an earlier Bench of the Court in getting a favourable order, leading ultimately to the release orders, but the Government of Gujarat was equally complicit.

Despite the law being amply clear in a Constitution Bench decision in *Union of India vs V. Sriharan* (2015) that the appropriate government to decide a remission application is the State where the convicts are sentenced, the Court notes that the Gujarat government "usurped" power from the Government of Maharashtra.

Consequently, the Court declared the earlier two judge Bench decision of the Supreme Court holding the Gujarat government as the appropriate government to grant remission in this case as illegal (*per incuriam*). In effect, the remission orders for the convicts stand cancelled and the men have been directed to go back to the prison within two weeks' time.

A resilience that prevailed

Given the exceptional nature of injustice that pervades Bilkis Bano's struggle, the Supreme Court is rightfully being lauded for upholding the rule of law. As the decision reads, "rule of law and equality before the law would be empty words if their violation is not a matter of judicial scrutiny."

Significantly, the firm tone of the decision in standing on the illegality and the collusion of the Gujarat government with the petitioners is likely to be a soothing balm in Bilkis Bano's fight for justice. Justice Narayana's words come as solace in light of the disturbing memory of the celebrations that followed the release of the 11 convicts in August 2012.

As a woman and a lawyer, I celebrate this



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decision. I celebrate Bilkis Bano's resilience. I celebrate the force and commitment of India's leading women's rights lawyers in this case. It is inspiring.

The concept of remission

However, at the same time, this case raises important issues on remission and its relationship with punishment that remain unsettled. But before we get into that, let us briefly examine the concept of remission. Prison is a State subject. As a result, prison rules of each State identify certain reformative and rehabilitative activities that the prisoners can undertake in order to earn remission in the form of days. The total number of days earned in remission is deducted from the actual sentence imposed by the court. Remission is rooted in the logic that, ultimately, prisons are meant to be rehabilitative spaces rather than simply being an instrument to carry out retributive punishment.

In the context of life convicts, they necessarily have to serve a minimum of 14 years in prison before they can become eligible to apply for remission. An application does not guarantee remission and the setting off the earned remission against the punishment imposed by the courts.

Each application has to be individually considered by a committee based on factors laid down by the Supreme Court in *Laxman Naskar vs State of West Bengal* (2000). These include examining whether the offence is an individual act of crime without affecting the society at large; chance of recurrence of crime; whether the convict has lost their potentiality in committing crime; whether there is any fruitful purpose of confining the convict any more; and socio-economic condition of the convict's family. Naturally, given the individualised nature of the inquiry, these factors are subjective. This makes the reasons guiding these decisions extremely crucial.

While justice has been done in this case, difficult questions on state remission policies remain

However, the reality is that there is both a lack of transparency on how these committees are formed to decide individual applications and reasons guiding the decisions. Such a state of

affairs makes remission a potent site for exercise of arbitrary power.

Unchecked discretion

The current case is one such example of unchecked discretion. Besides, the Supreme Court in *Egura Sudhakar vs State of Andhra Pradesh* (2006) has held that judicial review of an order of remission is only available when there is a non-application of mind; relevant materials have not been considered, the order is *malafide*, or based on irrelevant considerations or suffers from arbitrariness. In the absence of reasons guiding the decisions, there is little scope to challenge them on these grounds. This concern of non-application of mind is writ large in the case of the 11 convicts in Bilkis Bano's case because the orders of the Gujarat government for each of them are exact copies.

In the Bilkis Bano case on remission, the Supreme Court found illegality and injustices that spoke to 'fraud' and 'usurpation of power' by the government, and, therefore, did not need to go into difficult normative questions. Certain remission policies of States present the question more starkly. States in India today have remission policies that completely deny remission opportunities to certain categories of offenders or have significantly longer periods of incarceration for certain offences before consideration of remission.

We will need to confront the issue of whether certain offenders defined by crime categories must be ineligible for remission. Or, are we better off focusing on developing appropriate conditions for remission and ensuring that there is meaningful and fair compliance with those conditions? A blanket denial of remission for crime categories, rather than ensuring effective compliance with remission conditions, takes us towards a punishment framework that is retributive. These are issues that the Court will inevitably be forced to grapple with sooner than later.

Research assistance by Neetha Yadu. The views expressed are personal

CONTEXT

- In the Bilkis Bano case, the **Supreme Court** of India, comprising Justices B.V. Nagarathna and Ujjal Bhuyan, overturned the **remission** granted to the 11 men convicted in the 2002 gangrape case.
- The **court** ruled that the **Gujarat government's decision** to **remit** their sentences and release them was **invalid**, as the **state government** had **no jurisdiction** to entertain the application for **remission** or pass the order and the convicts have been directed to report back to prison.

- The court also emphasized that the convicts, serving life sentences are entitled to seek remission only after serving a minimum of 14 years.

THE CONCEPT OF REMISSION

- **Prison** is a **State subject**. As a result, **prison rules** of each **State** identify certain **reformative** and **rehabilitative activities** that the prisoners can undertake in order to **earn remission** in the form of **days**.
- The total number of days earned in remission is deducted from the actual sentence imposed by the court.
- Remission is rooted in the logic that, ultimately, prisons are meant to be rehabilitative spaces rather than simply being an instrument to carry out retributive punishment.

SUPREME COURT'S DISCRETIONARY POWER

- **Discretionary jurisdiction** refers to a **court's power to decide** whether to **hear a particular case** brought before it.
- This power is typically granted to **courts of last resort** and **intermediate courts**, allowing them to choose whether to accept or deny the cases presented to them.

- The **Supreme Court**, for example, has the **discretionary power** to decide whether to hear cases through the process of granting "**certiorari**" and it exercises **judicial review**, which is the ability to **declare** a **legislative** or **executive act** in **violation** of the **Constitution**.
- Discretionary jurisdiction is an important function of the legal system, allowing courts to carefully consider the cases brought before them and make decisions that uphold the principles of law.

WRITS AVAILABLE TO SUPREME COURT

- The **Supreme Court** of India has the **power** to **issue writs** under **Article 32** of the **Constitution** of India.
- The writs available to the Supreme Court of India include:
 - **Habeas Corpus**: This writ is used to **protect** an **individual's personal liberty** and to ensure that they are not being held in custody illegally or without **due process of law**.

- **Mandamus:** This writ is used to **compel** a **public official** or **government agency** to perform a **legal duty** that they are obligated to perform.
- **Prohibition:** This writ is used to **prevent** a **lower court** or **tribunal** from **exceeding** its **jurisdiction** or acting in excess of its legal authority.

- **Certiorari**: This **writ** is used to **review** the decision of a **lower court** or **tribunal** to determine whether it has acted **within** its **jurisdiction** or has **committed** an **error** of **law**.
- These **writs** are **powerful tools** that allow the **Supreme Court** to **protect** the **fundamental rights** of **citizens** and to ensure that the government and its agencies are acting within the bounds of the law.

TENZING NORGAY AWARD



CONTEXT

- **Savita Kanswal** was a talented mountaineer who tragically **lost** her **life** in an **avalanche** in **Uttarakhand** in October 2022.
- She was posthumously honored with the **Arjuna Award** for her remarkable achievements in the field of **mountaineering**.

- At the age of 26, she set a **national record** by scaling **Mount Everest** and **Mount Makalu** in just **16 days**, earning her the posthumous **National Adventure Award**.
- Savita Kanswal tragically lost her life in an avalanche on **Draupadi Ka Danda**, a peak in the **Gangotri range** of the **Garhwal Himalayas**, in October 2022.



ABOUT THE AWARD

- The **Tenzing Norgay National Adventure Award** is the **highest adventure sports honor** in India, awarded annually by the **Ministry of Youth Affairs and Sports**.
- It is named after **Tenzing Norgay**, the **first person** to reach the summit of **Mount Everest** along with Sir Edmund Hillary.
- The award is given in **four categories**: Land Adventure, Water Adventure, Air Adventure, and Lifetime Achievement.

BELGOROD



CONTEXT

- **Belgorod**, a **city** located in **western Russia** has recently been in the news due to the ongoing **Russia-Ukraine conflict**.
- The city has been affected by deadly cross-border attacks from Ukraine, leading to evacuations and strikes on both sides.

Russia to focus on salvaging Belgorod

Agence France-Presse

MOSCOW

Russia said on Tuesday that its military would do everything possible to stop the Ukrainian shelling of Belgorod, a border town where hundreds were evacuated after fatal bombardments.

The vow came as the Defence Ministry said it had downed four Ukrainian drones over western Russia, with debris injuring three at an oil facility in the Oryol region.

Defence Minister Sergei Shoigu meanwhile said Russian forces were dictating the course of fighting on the front line.

Belgorod has suffered an uptick in fatal shelling attacks in recent weeks that prompted city officials to recently evacuate hundreds and extend a closure of schools.

A series of aerial attacks from Kyiv's forces in Belgorod last month killed 25 people, the worst attack on Russian civilians since the conflict began.

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