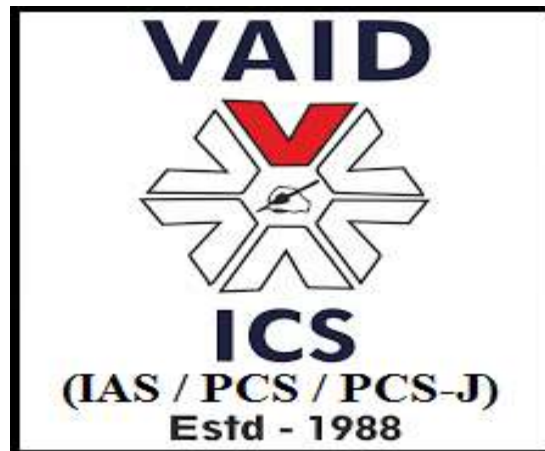


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(MONTHLY LEGAL CURRENT)

(DEC, 2024)

UPPCS-J/APO/OTHER JUDICIAL EXAMS

Scope of Article 226 of the Constitution : reappraise evidence

Why in News ? The Supreme Court has held that High Courts, under Article 226 of the Constitution, cannot **reappraise the evidence** or make factual findings unless the authorities below have exceeded their jurisdiction or acted perversely.

Key Points from the Judgment:

Case Title: *Ajay Singh v. Khacheru & Ors.*

Neutral Citation: 2025 INSC 9

Key Issues:

Scope of Article 226 of the Constitution:

- High Courts, under Article 226, cannot reappraise evidence or make factual findings unless:
- The lower authorities exceeded their jurisdiction.
- The findings were perverse or illegal.

Nature of the Dispute:

- The case involved disputed land recorded as a pond (*Johad*) in revenue records.
- The respondents claimed the land was *Oosar* (barren land) and contested the findings of lower authorities.

Concurrent Findings by Authorities:

The Additional District Magistrate and Additional Commissioner both found:

- The land was recorded as a pond in revenue records.
- A valid patta (land grant) was not executed in favor of the respondents.
- Revenue entries were fictitious due to contradictory dates signed by officials.

High Court's Reversal:

- The High Court overturned the findings based on its interpretation of revenue records, without identifying jurisdictional excess or perversity in the lower authorities' decisions.

Supreme Court's Decision:

- The High Court committed an error in reversing findings that were not afflicted by perversity or illegality.
- Article 226 does not allow reappraisal of evidence or substituting factual findings in such cases.

Observations by the Supreme Court:

Supervisory vs. Appellate Jurisdiction:

- Article 226 provides supervisory jurisdiction, not appellate powers to reexamine evidence.

Errors in High Court's Reasoning:

- The High Court's approach was problematic as it ignored established legal principles and acted outside its jurisdiction.

Reference to Precedents:

Krishnanand v. Director of Consolidation (2015):

High Courts can interfere with findings of facts only if:

- Authorities acted without jurisdiction.
- Findings were patently perverse.

Impact on Injunction Orders:

- The permanent injunction granted by the lower authorities was not the sole basis for decision and could not be set aside casually.

Legal Framework:

Article 226 of the Constitution:

- Allows High Courts to issue writs for enforcement of fundamental rights or for any other purpose.
- Does not empower High Courts to act as appellate courts to reassess facts.

Case Law Reference:

Syed Yakoob v. K.S. Radhakrishnan (1964): Limited scope for judicial review under Article 226.

State Bank of India v. Ram Lal Bhaskar (2011): High Courts cannot act as fact-finding bodies.

Krishnanand v. Director of Consolidation (2015): Reaffirmed principles of limited interference in factual findings.

Conclusion by the Supreme Court:

- The High Court acted outside its jurisdiction by reappreciating evidence and reversing the findings of lower authorities.
- The findings of the Additional District Magistrate and Additional Commissioner were upheld as they were based on valid evidence and free from perversity or illegality.

What is Reappreciation of evidence?

- Reappreciation of evidence refers to the **act of reviewing or re-evaluating the evidence** that has already been **examined and analyzed by a lower court**, tribunal, or authority during the decision-making process. It involves reassessing the factual findings and conclusions drawn from the evidence presented in the original proceedings.

Illustration:

- If a trial court finds a person guilty of a crime based on eyewitness testimony and forensic evidence, an appellate court may **reappreciate the evidence** to determine whether the lower

court:

- **Misinterpreted the testimony.**
- **Gave undue weight to inconclusive forensic reports.**
- **Ignored critical exculpatory evidence.**

Illustrative Case Law:

Syed Yakoob v. K.S. Radhakrishnan (1964): Held that judicial review under writ jurisdiction is limited and does not include reappreciation of evidence.

Krishnanand v. Director of Consolidation (2015): Reiterated that factual findings cannot be interfered with unless they are perverse or beyond jurisdiction.

Right to property is a human and constitutional right: Supreme Court

Why in news? The Supreme Court has ruled that no one can be deprived of their property without being paid adequate compensation as the right to property is both a human and constitutional right.

Key Points :

1. Right to Property as a Constitutional and Human Right:

- The Supreme Court ruled that no one can be deprived of their property without receiving adequate compensation.
- Although the Right to Property was no longer a Fundamental Right after the Constitution (Forty-Fourth Amendment) Act, 1978, it remains a human right and a constitutional right under **Article 300-A** of the Constitution.
- **Article 300-A** ensures that no one can be deprived of their property except by authority of law.

2. Adequate Compensation and Delay in Payment:

- The Court held that in cases of **inordinate delay** in disbursement of compensation, the date for valuation could be adjusted to a more recent one to ensure fairness to landowners.
- This adjustment would ensure that the compensation reflects the actual value of the land at the time of the award.

3. State's Power in Property Acquisition:

- The judgment reinforced that the State cannot dispossess citizens of their property unless it is in accordance with the **law** (i.e., the procedure established by law), as per **Article 300-A**.

4. The Case Background:

- The case arose from the acquisition of land for the **Bengaluru-Mysuru Infrastructure Corridor Project** (2003).
- Landowners challenged the compensation process, claiming they hadn't received proper compensation. The **Special Land Acquisition Officer (SLAO)** had postponed the notification for acquisition from January 2003 to 2011, leading to a discrepancy in the compensation awarded.

5. High Court's Earlier Decision:

- The Karnataka High Court had dismissed the challenge from the landowners and upheld the land acquisition and compensation awarded by the SLAO.
- The Supreme Court, however, disagreed with the High Court's ruling, emphasizing that any changes to the acquisition process or valuation date should have been done by the Court, not the SLAO.

6. Court's Guidance on Exercise of Power:

- **Justice Gavai** emphasized that the **Single Judge** of the High Court should have exercised powers under **Article 226** of the Constitution to ensure justice, rather than forcing the appellants to go through the lengthy process of re-determining compensation.

Case Law related to Article 300 A:

K.K. Verma v. Union of India (1954):

The Supreme Court held that the right to property under **Article 31** (now repealed) was a fundamental right. Any law depriving a person of property must be just, fair, and reasonable, and such deprivation must follow due process.

• **State of Rajasthan v. Union of India (1977):**

The Court ruled that the 44th Amendment removed **Article 31(1)** and relegated the right to property to Article 300-A. Although it's no longer a fundamental right, it remains constitutionally protected and subject to legal restrictions.

• **Lalit Mohan v. Union of India (1989):**

In this case, the Supreme Court reaffirmed that under **Article 300-A**, deprivation of property must be done according to law and follow due process, ensuring that any legal acquisition is justified.

• **Bishamber Dass v. State of Haryana (2015):**

The Court clarified that property under **Article 300-A** cannot be deprived by executive actions alone. It must be through law and with legal authority, ensuring adherence to principles of justice.

Arunachal Pradesh Freedom of Religion Act, passed in 1978,

Why in News? The Arunachal Pradesh government is reviving a 1978 anti-conversion law to address rising concerns over cultural preservation and religious conversions.

The **Arunachal Pradesh Freedom of Religion Act**, passed in 1978, seeks to regulate religious conversions within the state to protect indigenous faiths and traditions. It specifically prohibits conversions achieved through **force, inducement, or fraudulent means**, ensuring that religious freedom does not lead to exploitation or cultural erosion. Key provisions and related aspects include:

Key Features of the Act:

Prohibition of Unlawful Conversions:

- The Act bans conversions obtained by force, inducement (offering material benefits), or deceitful practices.

Penalties:

- Violators can face up to **two years of imprisonment** or a **fine of ₹10,000**, or both.

Mandatory Reporting:

- Individuals involved in religious conversions are required to report the details to the **Deputy Commissioner of the district**.

Dormant for Decades:

- Although enacted in 1978, the Act remained dormant for **46 years**, as the necessary implementation rules were not framed.

Why Was the Act Enacted?

The Act was introduced to address concerns about the impact of religious conversions on the region's **indigenous faiths and cultural practices**, particularly among ethnic groups like the **Monpas, Sherdukpens, and Tani tribes**.

- **Cultural Protection:**
- It aimed to safeguard the unique traditions of Arunachal Pradesh's tribal communities.

Rising Conversions:

- The rapid growth of Christianity in the state—**from 0.79% of the population in 1971 to 4.32% in 1981**—sparked debates about proselytization.

Why Was the Act Dormant?

Opposition from Christian Groups:

- Organizations like the **Arunachal Christian Forum** opposed the Act, labeling it discriminatory and prone to misuse.

Political Reluctance:

- With Christianity becoming the largest religion in the state (30.26% as per the 2011 Census), political leaders hesitated to alienate this demographic.

Lack of Rules:

- The absence of rules necessary for the Act's implementation hindered its enforcement.

Current Revival Efforts**Judicial Intervention:**

- A **Public Interest Litigation (PIL)** filed in the Gauhati High Court in 2022 brought attention to the government's inaction. The court directed the state to finalize rules within six months.

Support for Indigenous Traditions:

- Groups like the **Indigenous Faiths and Cultural Society of Arunachal Pradesh (IFCSAP)** are advocating for the Act's implementation to counter rising conversion rates and protect local traditions.

Challenges and Concerns:**Religious Freedom vs. Cultural Preservation:**

- Critics argue that the Act may curtail religious freedom, fostering **discrimination and division**.

Support for Indigenous Faiths:

- Proponents view the Act as essential for preserving Arunachal Pradesh's cultural identity.

Role of RSS and Affiliates:

- Organizations promoting indigenous faiths without directly engaging in conversions have added complexity to the debate.

Conclusion:

The **Arunachal Pradesh Freedom of Religion Act, 1978**, highlights the delicate balance between protecting cultural heritage and ensuring religious freedom. As discussions on its implementation intensify, careful consideration is needed to address diverse perspectives while upholding constitutional rights.

Section 326 of the Indian Penal Code (IPC) -Section 118(3) of BNS

Why in News? The supreme court has recently said that the offence of grievous hurt by dangerous weapons(s.326 ipc) can be compromised in exceptional circumstances.

The Supreme Court of India's observation about **Section 326 of the Indian Penal Code (IPC)** (**Now Section 118(3) of BNS**) reflects its acknowledgment of inherent judicial powers to address specific cases equitably, despite statutory limitations.

1. Section 326 of the IPC(BNS Section 118):

Scenario 1: If a person uses a knife to stab someone, causing them hurt, this would be punishable under **BNS Section 118 with imprisonment up to three years or a fine.**

Scenario 2: If someone causes grievous hurt by using a dangerous chemical that severely harms another person, the punishment could be imprisonment for **one year to life, plus a fine.**

Non-compoundable Nature: Under the Code of Criminal Procedure (CrPC), certain offenses are categorized as non-compoundable, meaning the parties involved cannot mutually agree to settle the case outside the court without judicial intervention.

2. Supreme Court's Observation:

- The Court acknowledged that **Section 326 is non-compoundable**, meaning that ordinarily, a case under this section cannot be quashed solely based on a compromise between the victim and the accused.
- However, the Court noted that **exceptional circumstances** might arise where invoking its **inherent powers under Article 142 of the Constitution** could provide justice.

3. Inherent Powers of the Court:

- **Article 142:** Grants the Supreme Court the authority to pass orders necessary for doing complete justice in any case or matter pending before it.
- **Application:** Even if the offense is non-compoundable, the Court may decide to allow compromise between parties if it deems it just, equitable, and in the larger interest of justice.

4. Key Considerations for Invoking Inherent Power:

- **Nature of the Offense:** Whether it affects public interest or is a private dispute between the parties.
- **Harm to Society:** Grievous hurt cases generally involve public safety concerns, but the Court might consider specific contexts.
- **Rehabilitation and Amicability:** If the accused has shown remorse, and the victim voluntarily agrees to the compromise.
- **Exceptional Circumstances:** Unique facts that justify deviating from the strict application of statutory provisions.

5. Precedents Supporting Judicial Intervention:

- The Supreme Court has previously quashed non-compoundable offenses in cases like **Gian Singh v. State of Punjab (2012)**, where it observed that courts could consider quashing FIRs in heinous offenses if doing so ensures justice.
- Similar reasoning applies here, where the balance between the strict application of law and equitable justice is crucial.

6. Implications:

- **Judicial Discretion:** Reinforces the judiciary's role in ensuring justice beyond rigid legal frameworks.
- **Balance of Power:** Highlights the interplay between statutory provisions and constitutional powers.
- **Case-Specific Decisions:** Reflects the evolving nature of justice, tailored to the facts of each case.

In summary, while **Section 326 IPC** is non-compoundable, the Supreme Court's observation underlines its capacity to adapt the application of laws in unique cases to uphold justice, guided by constitutional principles and fairness.

United Nations Convention on the Law of the Non-Navigational Uses of International Watercourses (UN Watercourses Convention, 1997)

Adopted: 1997

Came into Force: 2014

Purpose: Provides a framework for the use, management, and protection of international watercourses.

Key Principles:

Equitable and reasonable utilization: Ensures fair use of shared water resources.

Obligation to prevent significant harm: States must avoid causing harm to other states sharing the watercourse.

Cooperation: Encourages sharing information, data, and notifications on planned measures.

Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention, 1992)

Adopted: 1992 under the United Nations Economic Commission for Europe (UNECE).

Came into Force: 1996

Expanded Scope: Opened to all UN Member States in 2016.

Purpose: Promotes cooperation for the sustainable use and protection of transboundary waters.

Key Principles:

Prevention of transboundary impact: Avoid adverse effects on water resources across borders.

Sustainable water management: Integrate water policies with environmental and socio-economic considerations.

Public participation: Involve stakeholders in decision-making processes.

Helsinki Rules on the Uses of the Waters of International Rivers (1966)

Adopted by: International Law Association (ILA).

Purpose: Sets guidelines for the equitable and reasonable use of international rivers.

Key Principles:

- Recognizes the rights of all basin states to utilize shared water resources.
- Focuses on equitable distribution and conflict resolution.
- Precursor to the 1997 UN Watercourses Convention.

Berlin Rules on Water Resources (2004):

Adopted by: International Law Association.

Purpose: Updates the Helsinki Rules with a broader focus on integrated water resource management (IWRM).

Key Additions:

- Addresses environmental concerns, human rights to water, and sustainable development.

Provisions for Judicial Accountability in india:Judges (Inquiry) Act, 1968/Contempt of Courts Act, 1971:

Why in news ? Recent instances of judicial misconduct, including **Justice Shekhar Kumar Yadav's controversial remarks** reflecting bias against the Muslim community, highlight the urgent need for stronger accountability mechanisms in India's higher judiciary. These cases underscore the importance of transparency and impartiality to maintain public trust in the judicial system.

Constitutional Provisions:

Article 124(4) and (5): Impeachment of Judges

Judges of the Supreme Court and High Courts can be removed for proven misbehavior or incapacity through a process established by law.

Removal requires:

- A motion supported by a specified majority in both Houses of Parliament.
- Investigation by a judicial committee.

Article 235: Control Over Subordinate Judiciary

High Courts exercise control over subordinate courts, ensuring discipline and accountability.

Judicial Conduct Codes:

Restatement of Values of Judicial Life (1997):

- A code of ethics adopted by the judiciary to maintain high standards of conduct and impartiality.

In-House Procedure (1999):

- Internal mechanism for handling complaints against judges, ensuring that disciplinary matters are addressed without external influence.

Statutory Mechanisms:**Contempt of Courts Act, 1971:**

- Ensures accountability by penalizing actions that obstruct the administration of justice.

Judges (Inquiry) Act, 1968:

- Details the process for investigating allegations of misconduct or incapacity against High Court or Supreme Court judges.

Judicial Review and Accountability:

- Courts ensure accountability by:
- Reviewing laws and executive actions for constitutionality.
- Protecting fundamental rights.
- Subjecting their own judgments to scrutiny through appeal mechanisms.

Legislative Efforts:

- Judicial Standards and Accountability Bill, 2010 (Lapsed):
- Proposed to establish mechanisms for complaints against judges and a statutory code of conduct.
- Suggested creation of a National Judicial Oversight Committee for greater transparency.

Role of the Bar and Media:

Advocates and media play an informal role in holding the judiciary accountable by exposing judicial misconduct and initiating public discourse.

Challenges in Judicial Accountability:**Lack of Transparency:**

- Judicial appointments and disciplinary proceedings are often opaque.
- Overreach:
- Instances of judicial overreach sometimes undermine accountability to other branches of government.

Limited Mechanisms for Public Complaints:

The public has limited avenues to lodge complaints against judges.

Way Forward:

- Strengthening Judicial Appointments:

- Greater transparency in the Collegium system or introduction of a Judicial Appointment Commission.

Statutory Mechanisms:

- Reintroducing a revised version of the Judicial Standards and Accountability Bill.

Periodic Training:

- Mandatory ethical and professional training for judges at all levels.

Independent Oversight Body:

- Establishing a non-partisan body to handle judicial complaints without undermining independence.

Recent Case laws:**K. Veeraswami v. Union of India (1991):**

Facts: The case dealt with whether a sitting judge of the High Court or Supreme Court can be **prosecuted for criminal offenses like corruption.**

Judgment: The Supreme Court held that no criminal case could be registered against a judge of the High Court or the Supreme Court without prior sanction from the Chief Justice of India (CJI). This judgment highlighted the need for accountability while safeguarding judicial independence.

Justice C.S. Karnan Contempt Case (2017):

Facts: Justice C.S. Karnan, a sitting judge of the **Calcutta High Court**, was found guilty of contempt of court for his actions against fellow judges and his failure to respect judicial discipline.

Judgment: The Supreme Court sentenced Justice **Karnan to six months imprisonment**, marking an unprecedented step in holding a judge accountable for misconduct.

Campaign for Judicial Accountability and Reforms (CJAR) v. Union of India (2018)

Facts: The case questioned the lack of transparency in the functioning of the judiciary, including in judicial appointments and the handling of allegations against judges.

Judgment: The Court stressed that judicial accountability must be balanced with judicial independence. It also underscored the role of the collegium in ensuring transparency and accountability in judicial appointments.

United Nations Internal Justice Council (IJC):

Why in News? The former Supreme Court judge Justice **Madan B. Lokur** was appointed Chairperson of the United Nations Internal Justice Council for a term ending on November 12, 2028.

About the United Nations Internal Justice Council (IJC):

- The **United Nations Internal Justice Council (IJC)** is a body established to support the internal justice system of the United Nations.
- It plays a critical role in ensuring accountability, fairness, and transparency in addressing disputes and disciplinary matters within the UN system.

Key Features of the Internal Justice Council:

Purpose:

The IJC aims to uphold the principles of justice and due process for staff members of the United Nations by overseeing the functioning of the organization's internal justice mechanisms.

Responsibilities:

- Assists in **ensuring the independence and integrity** of judges within the UN's internal justice system.
- Provides recommendations for the appointment or reappointment of judges to the **UN Dispute Tribunal (UNDT)** and the **UN Appeals Tribunal (UNAT)**.
- Monitors the functioning of these tribunals to enhance their effectiveness and fairness.

Structure:

The Council consists of **five members**, including:

- Two staff members nominated by the UN staff.
- Two representatives of management.
- One independent chairperson selected by consensus.

Internal Justice System:

- The UN's internal justice system addresses employment-related disputes and other internal matters for staff.
- It includes:

UN Dispute Tribunal (UNDT): Handles first-instance cases related to administrative decisions affecting staff.

UN Appeals Tribunal (UNAT): Reviews appeals against judgments of the UNDT and decisions of other UN administrative bodies.

Significance:

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- The IJC enhances **credibility and trust** in the UN's internal processes by ensuring impartiality and professionalism in resolving disputes.
- It safeguards the **rights and obligations** of both the organization and its employees, contributing to a fair workplace environment.

Challenges:

- Balancing the interests of staff and management while maintaining judicial independence.
- Addressing the backlog of cases and ensuring timely resolution of disputes.

Conclusion:

The **Internal Justice Council** is a cornerstone of the United Nations' commitment to accountability and fairness within its workforce. By providing oversight and recommendations for the internal judicial system, the IJC ensures that the principles of justice and due process are upheld within one of the world's largest international organizations.

UN Charter and Justice System:

While the UN Charter does not explicitly mention the IJC, the principles of justice and fairness are rooted in the Charter's emphasis on promoting international cooperation and the rule of law. Several articles in the **Charter refer to the broader mandate of the UN** in maintaining justice and peace:

Article 101: This article addresses the administration of the United Nations, emphasizing the need for impartiality and independence in the recruitment and functioning of UN staff, including judicial staff.

Article 102: This article stipulates that all treaties, agreements, and arrangements concerning the UN must be registered and published, promoting transparency and fairness.

Rule 93(2)(a) of the Conduct of Election Rules, 1961

Why in News? The Government has recently amended the Rule 93(2)(a) of the Conduct of Election Rules, 1961.

About the Conduct of Election Rules, 1961 :

- The **Conduct of Election Rules, 1961** is a set of rules under the Representation of the People Act, 1951, which provides detailed guidelines for the conduct of elections in India. These rules deal with various aspects of the electoral process, including the

preparation of electoral rolls, nomination of candidates, voting procedures, and the declaration of results.

About the Rule 93(2)(a) of the Conduct of Election Rules, 1961:

- Rule 93 of the Conduct of Election Rules pertains to the declaration of the results of an election.
- **Specifically, Rule 93(2)(a)** deals with the procedures when the counting of votes is complete. It stipulates that after the counting of votes in a general or bye-election, the returning officer must, as soon as possible, declare the candidate who has received the highest number of votes as the winner and make a public announcement.

Key Points of Rule 93(2)(a):

- **Counting Completion:** Once the counting of votes is completed, the returning officer must verify the correctness of the votes counted.
- **Declaration of Result:** The candidate with the highest number of votes is declared elected.
- **Public Announcement:** The result must be made publicly known.
- This rule is crucial as it ensures that election results are declared promptly after the completion of counting, thus maintaining the transparency and legitimacy of the election process.

Related Case Law:

K. K. Verma v. Union of India (1955):

- This case emphasized the importance of following the procedures set out under the **Conduct of Election Rules**. The court highlighted the need for transparency and accuracy in counting votes and declaring results to prevent the possibility of any arbitrary decisions that could undermine the election process.

S. R. Bommai v. Union of India (1994):

- Although this case is primarily about the President's power to dissolve state legislatures, it also dealt with the importance of elections and the conduct of elections under established laws.
- The case stressed the need to follow constitutional norms and legislative processes, including those related to the declaration of election results.

T. N. Seshan v. Union of India (1995):

- This landmark judgment addressed the role of the Election Commission in ensuring free and fair elections.
- It upheld the Commission's authority to supervise elections and ensure that they are conducted in accordance with the law, which includes ensuring that results are declared in accordance with the procedures specified in the **Conduct of Election Rules, 1961**.

L. Chandra Kumar v. Union of India (1997):

- This case reinforced the need for effective and lawful election procedures. It underlined the role of the **Election Commission** in implementing the legal frameworks related to election conduct, which includes the declaration of results as per **Rule 93(2)(a)**.

Crimes against humanity (CAH): UNGA

Why in News? The recent adoption of a resolution by the United Nations General Assembly (UNGA) paved the way for negotiating a treaty on the prevention and punishment of crimes against humanity (CAH).

The Role of Crimes Against Humanity (CAH):

- Along with genocide and war crimes, CAH are categorized as grave international crimes.
- The International Criminal Court (ICC), established under the Rome Statute, is tasked with addressing these crimes.

- However, unlike genocide and war crimes, which are governed by the **Genocide Convention (1948)** and the **Geneva Conventions (1949)**, respectively, CAH currently lack a standalone treaty.

Existing Legal Framework for CAH:

- CAH were first codified in the **1945 London Charter** that created the **Nuremberg Tribunal after World War II**.
- They are included in the statutes of other international tribunals, such as those for Yugoslavia and Rwanda.
- Under the **Rome Statute**, CAH include acts like murder, extermination, enslavement, deportation, torture, imprisonment, and rape, carried out as part of a widespread or systematic attack against civilians.

The Legal Gap:

- While genocide and war crimes benefit from dedicated treaties, CAH are only addressed within the Rome Statute.
- This gap limits the scope of accountability and the international legal framework's ability to effectively combat these heinous crimes.

Significance of the UNGA Resolution:

Start of Negotiations: The resolution approves a draft text for the CAH treaty, signaling the commencement of formal negotiations among member states.

Landmark Development: This marks a major step in the international community's long-standing quest to create a robust mechanism to prevent and punish CAH.

Delayed Action: The resolution comes five years after the International Law Commission submitted the draft text to the UNGA's Sixth Committee, emphasizing the urgency of progressing in this area.

Justification for a CAH Treaty:

The article identifies three reasons for the necessity of a dedicated treaty:

Legal Clarity and Accountability:

- A CAH treaty would provide a comprehensive and uniform legal framework to address these crimes, ensuring no ambiguities in their prosecution.

Closing the Legal Gap:

- The absence of a treaty creates loopholes that perpetrators can exploit.
- A dedicated treaty would complement existing frameworks and strengthen international criminal justice.

Combatting Impunity:

- By establishing universal obligations and standards, the treaty would help hold individuals accountable, irrespective of jurisdictional limitations.
- It would also bolster the capacity of national and international institutions to prosecute and prevent such crimes.

About the 1945 London Charter:

The 1945 London Charter, officially called the Charter of the International Military Tribunal (IMT), was an important legal document that established the rules and procedures for the prosecution of major war criminals of the Axis powers after World War II.

It laid the groundwork for the Nuremberg Trials, where key leaders of Nazi Germany were tried for their crimes.

Principles of Natural Justice/ Nemo debet esse judex in propria causa:

Why in News ? The termes were recently in news.

What is Natural Justice ?

Natural justice is the foundation of fairness in law. It ensures decisions are made without bias and after giving parties a fair opportunity to present their case.

About Nemo debet esse judex in propria causa:

Meaning: No one should be a judge in their own case.

Objective: Prevents bias and ensures impartiality.

Examples:

- A judge or decision-maker with a personal interest in a case must recuse themselves.
- Any decision made with conflict of interest is considered invalid.

About Audi alteram partem:

Meaning: Hear the other side.

Objective: Everyone affected by a decision should have the opportunity to present their case.

Examples:

- In disciplinary actions, the accused must be given a chance to defend themselves.
- No decision should be made *ex parte* (without hearing one party), except in exceptional circumstances.

Relationship between Natural Justice and Speaking Orders:

- Speaking orders complement the principles of natural justice by ensuring fairness and transparency.
- They support the principle of *nemo debet esse iudex in propria causa* by allowing scrutiny of decisions to check for bias.
- They uphold *audi alteram partem* by showing that all arguments were considered before reaching a conclusion.
- **Conclusion:**

Together, speaking orders and the principles of natural justice are cornerstones of a fair legal system. They promote transparency, accountability, and trust, ensuring that decisions are not just made fairly but also appear fair to all concerned.

Case law :**Sandeep Kumar v. GB Pant Institute of Engineering & Technology Ghurdauri (2024)**

- The Supreme Court of India addressed the termination of an employee without a disciplinary inquiry.
- The Court held that such termination violated the principles of natural justice, emphasizing the necessity of conducting a proper inquiry and providing the employee an opportunity to be heard before making a decision.

Section 53-A of the Transfer of Property Act, 1882 (“TPA”) :

Why in News ? The Supreme Court recently observed that the transferee cannot claim protection under **Section 53-A of the Transfer of Property Act, 1882 (“TPA”)** if he fails to prove the execution of a sale agreement based on which possession was claimed.

Context of the Dispute:

- Petitioners claimed possession of property based on a Sale Agreement dated 25.11.1968.
- Respondent sought enforcement of ownership rights.

Trial and Appellate Court Rulings:

- Trial Court: Ruled in favor of the Respondent, decreeing the suit.
- First Appellate Court & High Court: Upheld the Trial Court's decision.

High Court's Observations:

- Petitioners failed to prove the existence of a valid sale agreement.
- Without proof of such an agreement, protection under Section 53A of the TPA could not be claimed.

Scope and Purpose of Section 53A of TPA:

- Provides a shield for prospective transferees in possession under an unregistered contract of sale.
- Relaxes strict requirements of the Transfer of Property Act and Registration Act in favor of transferees.
- Protects transferees who have relied on an agreement to take possession or make improvements.

Case Law:**Bishan Singh v. Khazan Singh (1958 AIR 838):**

Facts: The plaintiff sought possession of the property despite an unregistered agreement allowing the defendant possession.

Judgment: The Supreme Court held that Section 53A operates as a shield and not as a sword. It protects the transferee in possession but does not confer title or ownership.

Maneklal Mansukhbhai v. Hormusji Jamshedji Ginwalla (AIR 1950 SC 1):

Facts: The transferee had taken possession based on an oral agreement to sell.

Judgment: The Supreme Court held that for Section 53A to apply, the contract must be in writing. Oral agreements do not qualify for protection.

Court's Interpretation of Section 53A:

Protection under Section 53A is conditional on:

(a) Existence of a Written Contract: A written agreement signed by the transferor, clearly outlining terms of transfer.

(b) Part Performance:

Transferee takes or continues possession of the property.

Some action in furtherance of the contract is evident.

(c) Willingness to Perform Obligations: Transferee must perform or express willingness to fulfill contractual obligations.

- Petitioners' Failure to meet Section 53A Requirements:
- Alleged sale agreement was unproven.
- Possession lacked legal validity under the purported contract.

Court's Final Decision:

- Declined to **extend Section 53A** protection to the Petitioners.
- Affirmed the High Court's ruling in favor of the Respondent.

BNS Section 69:

Why in News ? A DSP, who was posted as the ACP in Kanpur, has been booked on charges of entering into a sexual relationship with a female student of IIT-Kanpur, making a false promise of marriage. The accused, Mohammad Mohsin Khan, has been booked under **BNS Section 69**.

About BNS Section 69:

- Whoever, by deceitful means or by making promise to marry a woman without any intention of fulfilling the same, and has **sexual intercourse with her, such sexual intercourse** not amounting to the offence of rape, shall be punished with **imprisonment of either description for a term** which may extend to ten years and shall also be liable to fine.

Explanation: "deceitful means" shall include the false promise of employment or promotion, inducement or marrying after suppressing identity.

BNSS Classification:

- Imprisonment which may extend to **10 years and fine**.
- **Cognizable**
- **Non-bailable**
- **Triable by Court of Session**

Issues /challenges related to section 69:

Patriarchal Assumptions and Exclusion:

Gender Bias: Implies that only women can seek legal recourse, excluding male victims and reinforcing male perpetrator stereotypes.

Systematic Exclusion: Denies recourse to members of the **LGBTQ+ community**, rendering the provision ineffective for non-heteronormative relationships.

Patriarchal Values: Reflects societal biases by assuming men as authority figures in relationships.

Ambiguities in Consent and Punishment:

Blurring of Consent: Questions whether consent obtained through deceit is 'free,' creating confusion between fraudulent and genuine promises.

Undefined Punishment: Only mentions maximum imprisonment, leaving scope for judicial inconsistency in sentencing.

Subjective Analysis: Cases require detailed examination of relationship dynamics, risking privacy violations under **Article 21**.

Misuse of the Law:

False Allegations: The provision is prone to exploitation, allowing malicious claims against innocent individuals, especially in **sensitive relationships like live-in or pre-marital ones**.

No Clarity on Intent: Fails to differentiate between a promise made in good faith but later broken and an initially insincere promise.

Exclusion of LGBTQ+ Community:

Limited Scope: Legal protection primarily applies to heterosexual relationships, excluding LGBTQ+ individuals from seeking redressal.

Failure to Modernize: Despite recognizing same-sex relations, **Section 69 does not address deceit in non-heterosexual partnerships**.

Constitutional Conflicts:

Violation of Rights:

Article 14: Discriminates on the basis of gender and excludes certain communities.

Article 19: Restricts personal liberties by potentially criminalizing consensual relationships.

Article 21: Undermines the right to privacy and dignity in adjudicating sensitive matters

UN Declaration on Minority Rights (1992):

Why in News ? The Minority Rights Day was celebrated on December 18, globally marking the adoption of the UN Declaration on the 'Rights of Persons Belonging to National, Ethnic, Religious, and Linguistic Minorities' in 1992.

Relevance in Democracy: Franklin D. Roosevelt quoted that democracy cannot survive without the recognition of minority rights. These rights uphold the essence of diversity and equality in a democratic polity.

Historical Context of Minority Rights:

19th-Century European Frameworks:

Austria (1867): Article 19 of the Austrian Constitutional Law acknowledged the right of ethnic minorities to preserve and develop their nationality and language.

Hungary (1868): Act XLIV enshrined minority protections in national legislation.

Switzerland 1874): (The Constitution of the Swiss Confederation provided equal status to the three national languages (German, French, and Italian) in civil services, legislation, and judiciary.

Post-World War I Peace Treaties:

- Five treaties involving **Poland, Czechoslovakia, Romania, Greece, and Yugoslavia** codified minority protections.
- Special provisions for minorities were included in peace treaties with **Austria, Bulgaria, Hungary, and Turkey.**
- Countries like **Albania, Finland, and Iraq** unilaterally declared their commitment to minority rights.

Related case law :**T.M.A. Pai Foundation v. State of Karnataka (2002):**

Context: Rights of minorities to establish and administer educational institutions.

Judgment:

- The Supreme Court interpreted **Article 30(1)**, which grants minorities the right to establish and administer their educational institutions.
- The Court emphasized that the protection of **minority rights** is integral to India's democratic fabric and aligned with international standards.

2. St. Stephen's College v. University of Delhi (1992):

Context: Admission policies in minority institutions.

Judgment: The Court held that **minority institutions** have the right to establish admission policies for safeguarding their **culture and interests**, provided they maintain standards of excellence and do not discriminate unreasonably.

Global Recognition of Minority Rights:**Universal Declaration of Human Rights (UDHR):**

Article 27: Grants every individual the right to enjoy their culture, participate in cultural associations, and forums. It underscores the importance of community rights to ensure diversity.

UN Declaration on Minority Rights (1992):

- Affirms the necessity of protecting ethnic, religious, and linguistic minorities to promote equality and peaceful coexistence globally.

Theoretical Perspective:**Beyond Communalism vs. Secularism:**

- The article urges lifting the minority rights debate from the narrow communalism-secularism framework to a broader democratic and equality-based perspective.
- Minority rights are seen as essential to achieving substantive equality, ensuring that all groups have equitable opportunities and recognition.