



# drishti

## News Analysis (01 Oct, 2018)

[drishtiias.com/current-affairs-news-analysis-editorials/news-analysis/01-10-2018/print](https://drishtiias.com/current-affairs-news-analysis-editorials/news-analysis/01-10-2018/print)

### Reservation in Promotions

A five-judge Constitution Bench of the Supreme Court has upheld **the application of "creamy layer" principle** relating to reservations for Scheduled Castes (SCs) and Scheduled Tribes (STs) in promotions.

- The creamy layer is a concept that puts an income ceiling on people availing of caste-wise reservations in government jobs and education. Till now, this was only applicable for reservations under the Other Backward Classes quota. SCs and STs were excluded since it was argued that their backwardness was based purely on untouchability for which economic improvement was not a remedy.
- Further Supreme Court ruled that the **judgment in the case of M. Nagaraj v. Union of India**, relating to reservations for SCs and STs in promotions, **need not to be referred to a larger bench for consideration**.
- Center had claimed that there was a need to review the M Nagaraj verdict of 2006 stating that the judgement had virtually stopped promotions by putting criteria like backwardness, inadequate representation and overall administrative efficiency.
- Various States had challenged the Nagaraj verdict stating that the criteria for reservation in promotion for SC/ST employees laid down in it was proving to be a hurdle to filling up lakhs of vacancies in different government departments spread across various States.
- So, the correctness of interpretation given by Nagaraj decision was referred to Constitution Bench for reconsideration during November 2017.

### Background

- The Central and the State Government since the 1950s have been following a policy of reserving seats in promotions in favours of SC and ST communities on the ground that they are not adequately represented at **the decision making level of public services**.

- This policy was held to be unconstitutional and void by the Supreme Court in **Indra Sawhney v. Union Of India 1992 case** on the ground that under Article 16(4) the State is provided with the power to make reservations in favour of backward classes of citizens only at the entry level that is at the time of recruitment into public services but not subsequently.
- The Parliament responded by enacting 77 th Constitutional Amendment Act which introduced Article 16(4A). It confers power on the state to reserve seats in favour of SC and ST in promotions in Public Services if the communities are not adequately represented in public employment. This law was given retrospective effect from 1992.
- The Supreme Court in M. Nagaraj v. Union Of India 2006 case while upholding the constitutional validity of Art 16(4A) held that any such reservation policy in order to be constitutionally valid shall satisfy the following three constitutional requirements:
  - The SC and ST community should be socially and educationally backward.
  - The SC and ST communities are not adequately represented in Public employment.
  - Such a reservation policy shall not affect the overall efficiency in the administration.

## Supreme Court's Judgement

---

- **Application of the “Creamy layer” principle**
  - Supreme Court ruled that the **"creamy layer exclusion" principle, till date applied only to OBCs, can be extended to SCs and STs** to deny reservation to the elite among the two communities.
  - It upheld the constitutional amendments leading to Article 16(4A).
  - Therefore, the Constitution Bench held that there was no necessity to revisit Nagaraj judgment in so far as it applied the creamy layer test.
  - Giving a stamp of approval to application of creamy layer principle to SC/STs, the court asserted that the objective of reservation would not be fulfilled if only the creamy layer within that class bag all the coveted jobs in the public sector, leaving the rest of the class as backward as they always were.
- **Proof Of Backwardness Of SC/STs**
  - The Supreme Court held the conclusion in Nagaraj case that the State has to collect quantifiable data showing backwardness of the SCs and the STs **as invalid**. It opined that this was contrary to the finding arrived at by the nine-judge bench in Indra Sawhney v. Union of India.
  - It noted that the nine-Judge Bench in Indra Sawhney case had categorically ruled that test or requirement of social and educational backwardness cannot be applied to SCs and STs, who undoubtedly fall within the expression “backward class of citizens”.

- **Reservation In Promotion Need Not Be In Proportion To Population**

It noted that while the test of proportionality to the population is mandated by the Constitution in Article 330 (Reservation of seats for SCs & STs in the House of People), it does not do so in the provision of reservations in promotions (Article 16(4A)).

---

## At UNGA, India Calls for Early Adoption of CCIT

---

External Affairs Minister Sushma Swaraj reiterated India's demand for a Comprehensive Convention on International Terrorism (CCIT) at the 73rd session of UN General Assembly.

### About CCIT

---

- In 1996, with the objective of providing a comprehensible legal framework to counter terrorism, India proposed to the United Nations General Assembly (UNGA) the adoption of the "Comprehensive Convention on International Terrorism" (CCIT).
- India, which has been a victim of cross-border terrorism, took cognizance of the threat it poses to international peace and security long before the major world powers.
- CCIT included the following major objectives:
  - To have a universal definition of terrorism that all 193-members of the UNGA will adopt into their own criminal law.
  - To ban all terror groups and shut down terror camps.
  - To prosecute all terrorists under special laws.
  - To make cross-border terrorism an extraditable offense worldwide.
- Definition of terrorism:
  - According to this convention, Any person who commits an offense, with the purpose of the conduct is to intimidate a population or to compel a Government or an international organization to do or abstain from doing any act, which causes:
    - - Death or serious bodily injury to any person; or
      - Serious damage to public or private property, including a place of public use, a State or government facility, a public transportation system, an infrastructure facility or the environment; or
      - Damage to property, places, facilities, or systems resulting in or likely to result in a major economic loss,

### Issues surrounding CCIT

---

- The conclusion and ratification of the CCIT remains deadlocked due to opposition from three main blocs –

- **The US**
  - The US wanted the draft to exclude acts committed by military forces of states during peacetime.
  - The U.S. has been worried about the application of the CCIT to its own military forces especially with regard to interventions in Afghanistan and Iraq.
- **The Organization of Islamic Countries (OIC)**
  - OIC wants exclusion of national liberation movements, especially in the context of Israel-Palestinian conflict.
  - It was argued that there is a need to distinguish acts of terrorism from movements for self-determination so that legitimate movements are not labeled as criminal acts of terrorism.
- **The Latin American countries.**
  - Latin American countries wanted the draft to cover “state terrorism” and also the violation of International Human Rights laws by states.
- Currently, the negotiations of the Comprehensive Terrorism Convention are deadlocked because of differences over the definition of terrorism.
- This definition itself is not controversial. The deadlock is because of issue that whether such definition would be **applicable to the armed forces of a state** and to **Self- determination movements**.

## Conclusion

---

To create an effective mechanism to counter terrorism it is necessary that countries should agree upon a definition of terrorism. Countries should not look from the prism of their self-interest rather look into the issue through a broader perspective of solving the problem of global terrorism.

---

## New Maritime route through Arctic Ice

---

AP Moller-Maersk, the world’s largest container shipping groups cargo vessels, had navigated through the Russian Arctic on a trial journey.

- The ship arrived in St Petersburg on the Gulf of Finland after leaving Vladivostok on the North Pacific on August 22.
- The route can become the new maritime highway between Asia and Europe.
- The Northern Sea Route (along Russia’s northern extremity) could potentially cut the travel distance between East Asia and Western Europe (currently via the Malacca Strait, Indian Ocean, Gulf of Aden and Suez Canal) from 21,000 km to just 12,800 km, and the journey time by 10-15 days.

## The Vanishing Ice

---

- Years of melting ice have made it easier for ships to ply these frigid waters.
- The extent of sea ice covering the Arctic Ocean has declined in every decade since the 1980s, measurements which were taken every September show.
- As climate change is resulting in parts of the Arctic warming up to 100% faster than elsewhere, there is evidence that ancient, thick ice is disappearing as well.

## The New Shipping Route

---

- As the seas warm, it is conceivable that ships, by the middle of this century, will be able to pass directly over the North Pole from the north of Russia to the north of Canada, at least for some weeks in the summer.
- The shipping activity in the region is likely to increase significantly over the next decade, also because Russia is likely to develop oil and gas fields in Siberia.

## Issues with Arctic Sea Route

---

- **Costs**  
High costs and varying conditions of Arctic ice can discourage the shippers who have to follow strict schedules.
- **Safety**  
Increased insurance costs and safety considerations are other concerns.
- **Environment**  
The noise and environmental pollution done by ships can severely impact the environment as well as the wildlife in the otherwise remote part of the world.

---

## Important Facts for Prelims (01st October 2018)

---

### Mahatma Gandhi International Sanitation Convention.

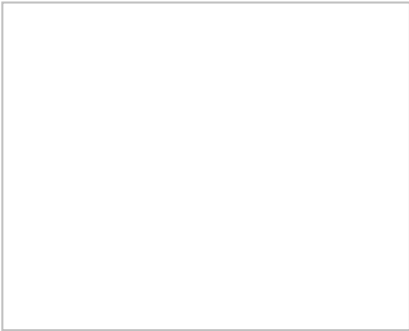
---

- The Mahatma Gandhi International Sanitation Convention (MGISC) is a 4-day event that brings together Sanitation Ministers and sector specialists from around the world.
- In 2018, delegates from 68 countries participated in the convention.
- It is being organized by the Ministry of Drinking Water and Sanitation, Government of India.
- The convention aims to share sanitation success stories and lessons from the participating countries and will culminate on October 2nd, 2018, with the launch of the **Mahatma's 150th birth year celebrations in India**, as SBM enters its final year of implementation mark the beginning of the 150th birth anniversary celebrations of Mahatma Gandhi, also coinciding with the fourth anniversary of the launch of Swachh Bharat Mission.

## Surinsar-Mansar Lakes

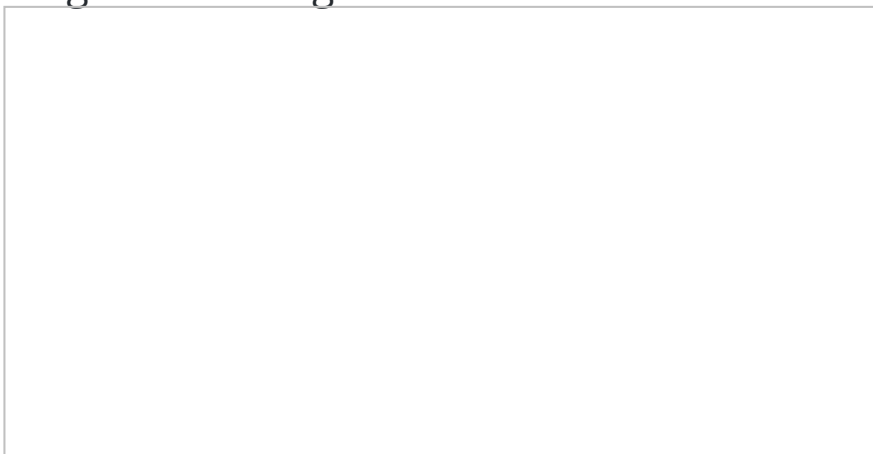
---

- It is one of the 26 Ramsar Sites designated as Wetlands of International importance located in Jammu & Kashmir.
- Surinsar Lake and Mansar Lake are considered to be twin lakes.



- The Surinsar Mansar Wildlife Sanctuary is nestled in the midst of both the lakes.
- The site is socially and culturally very important with many temples around owing to its mythical origin from the Mahabharata period.
- Surinsar is rain-fed without permanent discharge, and Mansar is primarily fed by surface runoff and partially by mineralized water through paddy fields, with inflow increasing in the rainy season.
- Currently, it is facing an existential threat due to human intervention and climate change.

## Mughal-era Bridge Oont Kadal



- The iconic 17th-century bridge, Oont Kadal, will be restored through a conservation project by INTACH with the help of Germany.
- The hump-backed bridge, locally known as Oont (Camel) Kadal lies in the middle of the Dal Lake mostly visible from Nishat Garden.
- Oont Kadal forms an important part of the locality along with the Dal Lake, the Zabarwan Mountain range (sub-mountain range between Pir Panjal and Great Himalayan Range) and the potential World Heritage Site of Nishat Bagh.

- The Zabarwan mountain range possesses great Himalayan features with rich wildlife. The Dachigam National Park is the main feature of the range which holds the last viable population of Kashmir stag (Hangul).
- The restoration of Oont Kadal will bring back the focus on the global, cultural and natural heritage of the Dal Lake.

### **Indian National Trust For Art And Cultural Heritage (INTACH)**

- INTACH is a non-profit charitable organisation registered under the Societies' Registration Act, 1860 founded in 1984 in New Delhi with the vision to spearhead heritage awareness and conservation in India.
  - It has pioneered the conservation and preservation of not just our natural and built heritage but intangible heritage as well.
-