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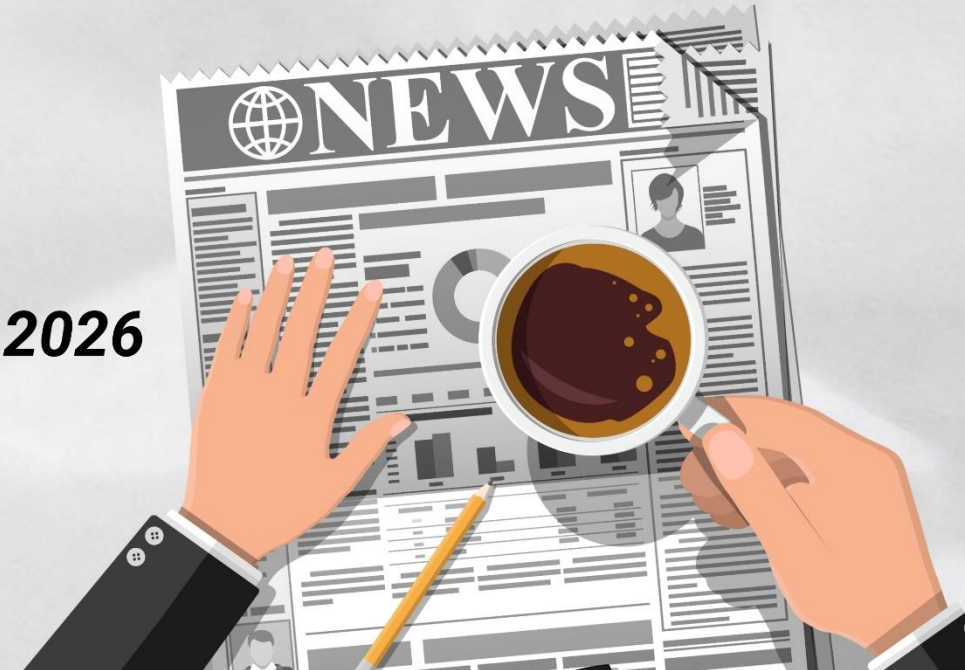

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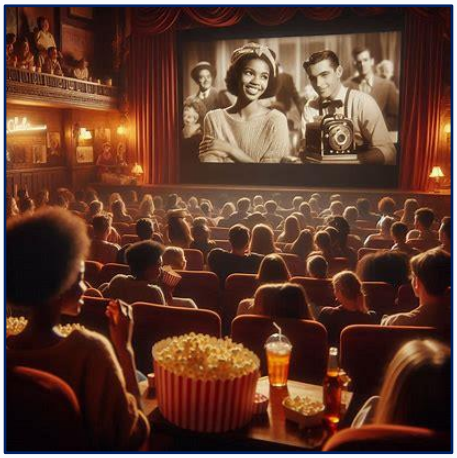
GENERAL STUDIES 1

1.1. SOCIETY

1.1.1. A NEW ROADMAP FOR INDEPENDENT CINEMA



Context:

The **Academy of Motion Picture Arts and Sciences (AMPAS)** has recently revised its rules for the **International Feature Film category**, marking a **philosophical shift** in how global cinema is validated and circulated moving away from rigid national gatekeeping toward **festival-driven, merit-based recognition**.

Significance of Cinema — A Multi-Dimensional Lens

1. **Cultural and Constitutional Significance**
   - **Article 19(1)(a)** of the Indian Constitution guarantees **Freedom of Speech and Expression**, which includes the right to make, exhibit, and distribute films a right recognised and upheld by the Supreme Court in **K.A. Abbas v. Union of India (1970)**, affirming cinema as a legitimate medium of artistic expression protected under fundamental rights.
   - **Articles 29 and 30** protect the **cultural rights of linguistic and religious minorities**; cinema in regional languages Malayalam, Assamese, Marathi, Bhojpuri is a primary vehicle through which these communities express, preserve, and transmit their distinct identities across generations.
   - The **Cinematograph Act, 1952** and the **Central Board of Film Certification (CBFC)** regulate cinema, but their scope must be balanced against creative freedom.
   - **Directive Principles (Article 49)** direct the state to protect monuments and works of **artistic and national importance** cinema, as a cultural artefact, falls within this spirit.
2. **Economic and Soft Power Significance**
   - India's film industry covering **Bollywood, regional cinema, and independent films** is among the **largest in the world by number of productions**, directly and indirectly employing millions.
   - Cinema contributes to India's **soft power diplomacy**; Indian films screened internationally build **cultural bridges** and enhance the country's global image.
   - The **National Film Development Corporation (NFDC)** was established specifically to support **non-commercial, independent, and parallel cinema** that carries India's artistic identity globally.
   - The **International Film Festival of India (IFFI)**, held annually in Goa, is a platform that showcases Indian cinema to global audiences yet many acclaimed independent films fail to get adequate campaign support beyond this point.
3. **Social Significance — Impact Across Age Groups and Communities**
   - **Cinema as an instrument of social awareness across age groups:** For children, age-appropriate cinema builds **values, empathy, and moral reasoning** for the youth, it shapes

political consciousness and social attitudes by honestly depicting unemployment, caste discrimination, and urban migration; and for adults, it serves as a **mirror of lived social reality** making cinema a lifelong public education tool across generations.

- For instance, children's cinema like **Taare Zameen Par (2007)** mainstreamed awareness **on learning disabilities.**

- **Cinema as a platform for gender justice and social advocacy:** Independent cinema provides **agency and visibility** to women as both subjects and creators opening spaces for narratives around **domestic labour, ambition, and resistance** that mainstream cinema rarely addresses; similarly, socially rooted films serve as **instruments of advocacy for Dalit communities, tribal populations, and linguistic minorities**, contributing directly to democratic discourse and social justice.
  - Films like **Lipstick Under My Burkha (2016)** notably contested by the **CBFC itself** exemplify how independent cinema pushes boundaries on gender, while **Court (2015)** demonstrates cinema's power to expose **systemic injustice faced by marginalised communities** through the lens of India's own legal apparatus.
- **Cinema as a living archive of India's cultural heritage:** Regional independent cinema preserves **folk traditions, oral histories, dialects, and landscapes** at risk of erasure in a rapidly urbanising society, functioning as an intergenerational repository of India's **plural cultural memory,** a dimension that neither museums nor textbooks can replicate with the same immediacy and emotional depth.
  - **Village Rockstars (2017)**, set in rural Assam, and **Peepli Live (2010)**, capturing agrarian distress in rural central India, are illustrative examples of cinema functioning as a **living documentary of India's socio-cultural fabric.**

Major Challenges Facing Indian Independent Cinema

1. **Absence of Institutional and Promotional Infrastructure**
   - A **defining paradox** of **Indian independent cinema** is that it is **globally visible but institutionally underrepresented** films that win awards at **Cannes, Venice, Berlin, and Toronto** return to India without the **distribution support, critical mass, or campaign funding** needed to sustain their international momentum toward major awards recognition.
   - India lacks a **dedicated international film promotion fund** comparable to the **French CNC (Centre national du cinéma)** or South Korea's **Korean Film Council (KOFIC)**, both of which actively finance international campaigns, subtitling, distribution deals, and press outreach for their national cinema.
   - Films emerging from **non-Hindi regional industries** face **an additional layer of invisibility** without **English subtitles, international distribution contracts**, or representation at global film markets, even award-winning regional films struggle to reach Academy voters.
2. **Censorship Pressures and Creative Self-Censorship**
   - **Films engaging with religion, caste, gender, or political history** routinely invite protests, demands for bans, or state intervention. S. Durga (2017) was initially barred from the **International Film Festival of India**, and **Lipstick Under My Burkha** (2017) faced certification delays for its honest portrayal of women's desire.

- The persistent fear of controversy drives filmmakers toward **preemptive self-censorship**, directly compromising the social urgency and artistic integrity that makes independent cinema valuable.

3. **Diversity vs. Singular Representation**
   - The idea that **one film can represent India's cinematic diversity** spanning 22 scheduled languages, dozens of regional industries, and multiple aesthetic traditions is **fundamentally flawed.**
   - India produces films in **Hindi, Tamil, Telugu, Malayalam, Bengali, Marathi, Kannada, Assamese** and many more languages, each carrying distinct cultural voices that cannot be compressed into a single national entry, reinforcing a **Hindi-centric bias** in how Indian cinema is represented globally.
   - The **new AMPAS rules**, by allowing **festival-acclaimed films to qualify independently**, acknowledge that **cinema is not a monolith but a mosaic** a recognition that is both timely and necessary for a country like India
4. **Opaque National Gatekeeping for Global Recognition**
   - India's official Oscar submission in the **International Feature Film category** is decided by a **government-appointed committee** whose selection process has historically been opaque, favouring **safe, commercially mainstream narratives** over artistically daring, politically nuanced, or regionally rooted cinema.
   - The **'one country, one film' rule** created a **single-point institutional bottleneck** even films that had already achieved **significant international festival recognition** were entirely shut out of the Oscar race simply because they were not chosen as the national entry, regardless of their artistic merit or global acclaim. Eg., **Laapataa Ladies (2024)** was selected over the festival-celebrated All We Imagine as Light, sparking significant debate.
5. **Risk of Creative Homogenisation**
   - Exposure to international festival circuits risks pushing filmmakers toward **generic arthouse aesthetics** slow pacing, muted palette, minimalist narratives at the expense of cultural rootedness and local texture.
   - Paradoxically, the most globally successful films are those **most deeply embedded in their own cultural reality**. **Satyajit Ray's Apu Trilogy** succeeded internationally precisely because of its unflinching specificity to rural Bengal demonstrating that authenticity is a competitive advantage, not a limitation.

Global Best Practices — Lessons for India

- **South Korea** — **Bong Joon-ho's Parasite (2019)** won the **Oscar for Best Picture**, demonstrating that deeply rooted cultural specificity, not dilution, achieves global success. South Korea invested in **international distribution infrastructure** and sustained film festival campaigns backed by the government and private industry.

- **France** operates a **robust system of co-production treaties** and **CNC (Centre national du cinéma)** funding, enabling independent filmmakers to access financial support for international exposure while retaining creative control.
- **Iran,** despite significant domestic restrictions, Iranian cinema like **Asghar Farhadi's films** achieved global recognition through **festival circuits and international co-productions**, proving that artistic authenticity travels across political boundaries.

Way Forward — Balancing Creative Freedom and Institutional Support

1. **Reforming the National Selection Process**
    - India must **reform the composition and criteria** of the Oscar selection committee moving from opaque bureaucratic processes to **transparent, merit-based selection** with representation from diverse regional and linguistic film industries.
    - A **multi-film submission strategy** under the new AMPAS rules should be actively pursued, allowing India to submit films across categories and languages rather than betting on a single entry.
2. **Building Campaign and Distribution Infrastructure**
    - The **NFDC** and **Ministry of Information and Broadcasting** must create a **dedicated fund for international film campaigns**, covering publicists, screenings, and promotional activities at major global markets like **Cannes, Berlin, TIFF, and Sundance.**
    - India must invest in **international co-production treaties** similar to the **French CNC model**, enabling Indian independent films to access foreign funding while retaining their cultural identity.
    - Strengthening **OTT platforms' role** in distributing independent cinema globally like Netflix, Mubi, and MUBI India can be strategic partners in ensuring that critically acclaimed films reach international audiences and build the visibility needed for awards campaigns.
3. **Protecting Creative Freedom — The Censorship Balance**
    - A **reformed CBFC** that works as a **certification body, not a censorship body**, is essential one that does not clip the wings of politically or socially daring cinema before it can represent India globally.
    - The **Shyam Benegal Committee (2016)** recommended that the CBFC should **only certify films based on age-appropriateness** and not judge artistic or political content. Its recommendations must be **fully implemented.**
    - Freedom of artistic expression under **Article 19(1)(a)** must be protected; **reasonable restrictions under Article 19(2)** must remain truly exceptional and not become a tool of **administrative overreach** that chills independent filmmaking.
    - A **Film Ombudsman or independent appellate body** should be created to provide quick, transparent resolution when certification decisions are challenged protecting filmmakers from **prolonged legal battles** that delay international releases.
4. **Fostering an Ecosystem for Independent Cinema**

- State governments should be encouraged to **set up regional film development funds** that support independent cinema in **Malayalam, Marathi, Bengali, Assamese, Tamil** and other languages — recognising that India's Oscar potential lies in its diversity, not uniformity.
- **Film education institutions** like **FTII (Film and Television Institute of India)** and **SRFTI (Satyajit Ray Film and Television Institute)** must be strengthened with **international co-production workshops** and **festival strategy modules** so that the next generation of filmmakers is globally equipped.
- **International film co-production agreements** already signed by India with countries like **Italy, UK, Germany, Brazil** and others must be **actively operationalised** to support independent filmmakers rather than just large commercial productions.

Conclusion

- The **new Oscar guidelines** are a recognition that cinema today is **transnational** — not because it erases cultural borders, but because authentic stories speak across them; the lesson from **Parasite** is clear — **rootedness, not dilution, achieves global resonance.**
- For India, this is a **moment of genuine possibility** — but it will only be realized if the nation builds the **institutional ecosystems, campaign infrastructure, and creative freedom** that can carry its extraordinary cinematic diversity from village screens to the world's most celebrated stages.

Q. *Independent cinema plays a crucial role in strengthening democratic discourse and preserving cultural diversity in India. Evaluate. (10 Marks)*

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2.1. POLITY & GOVERNANCE

2.1.1. BULLDOZER JUSTICE: WHEN THE STATE BYPASSES THE LAW

Context:

Recently, the public glorification of **"bulldozer justice"**, reflected in symbolic gestures such as children gifting toy bulldozers to political leaders, indicates a troubling normalisation of **extrajudicial punishment**, where **demolition of property** is celebrated as decisive governance rather than questioned as a constitutional violation.

Understanding Bulldozer Justice: Meaning, Practice and Legal Context

- **Definition and Nature of Bulldozer Justice**
  - "**Bulldozer Justice**" refers to the **extrajudicial demolition of properties** belonging to individuals accused of crimes, often carried out by state authorities **without completing legal procedures**.
  - It bypasses the established sequence of **allegation → investigation → adjudication → punishment**, thereby violating the **core principles of criminal justice**.
  - The practice converts administrative action into **punitive spectacle**, where destruction becomes a substitute for legal accountability.
- **Historical Background and Evolution**
  - The use of bulldozers as a coercive state tool is not new; during the **Emergency period (1975–77)**, demolitions such as those in **Turkman Gate** were later criticised as **state excesses**.
  - However, unlike earlier criticism, the present trend is being **celebrated politically and socially** as a symbol of **strong governance and zero tolerance**.
  - This shift from **condemnation to endorsement** signals a dangerous normalization of **executive overreach**.
- **Contemporary Drivers Behind the Bulldozer Justice Practice**
  - India's justice system is burdened with a **backlog of over 5.5 crore cases** across all courts, with the Supreme Court alone having **over 90,000 pending cases**, creating an enormous perception of delay.
  - The **India Justice Report 2025** revealed that India has only **15 judges per million people** — far below the **1987 Law Commission** recommendation of **50 judges per million** — meaning systemic delays are structural, not incidental.
  - In **22 of 25 States**, cases pending for over three years in subordinate courts constitute 25% of all pending cases; **across 25 High Courts**, cases pending for **over five years** account for **51% of total pendency**.

- In an era of rapid service delivery expectations, governance too faces pressure for **quick outcomes**, leading to **shortcuts over due process**.

Supreme Court's Response: Declaring Punitive Demolitions Unconstitutional

In a landmark intervention in **November 2024**, the Supreme Court of India, invoking its extraordinary powers under **Article 142** of the Constitution, issued **pan-India guidelines** declaring punitive demolitions unconstitutional.

- **Mandatory Prior Notice:** Authorities must serve a written notice of at least **15 days** to the property owner via registered post before any demolition action is initiated, giving them time to respond.
- **Right to be Heard:** The affected party must be granted a **personal hearing** to contest the demolition order, and the authority must issue a **reasoned written order** explaining why demolition is the only viable option.
- **Accountability and Video Recording:** All demolition proceedings must be **recorded on video** to ensure transparency and prevent abuse of power.
- **Personal Liability of Officials:** Any public official found violating these guidelines will face **contempt of court proceedings** and will be held **personally liable** to pay for the restitution of the destroyed property from their own salary.
- **Exception Carved Out:** The Supreme Court clarified that its directions will not apply to unauthorised structures in **public places** such as roads, footpaths, railway lines, or riverbanks, and to cases where demolition is ordered directly by a court of law.

Judicial Pronouncements Reinforcing Due Process and Property Rights

- **Maneka Gandhi Case, 1978:** The Supreme Court expanded **'procedure established by law'** to mean it must be just, fair, and reasonable — introducing **due process of law** into Indian jurisprudence, directly contradicting arbitrary demolitions based on mere suspicion.
- **Olga Tellis Case, 1985:** The Court held that **Article 21** — the right to life — also encompasses the **right to livelihood and shelter**, meaning demolishing homes without due process is a direct violation of the fundamental right to life.
- **KT Plantation (P) Ltd Case, 2011:** The Court ruled that any legislation depriving a person of property under **Article 300-A** must be just, fair, and reasonable, reinforcing the need for procedural safeguards before property destruction.

Key Concerns: Why Bulldozer Justice Undermines the Rule of Law

1. **Violation of the Rule of Law and Due Process**
    - Bulldozer Justice fundamentally subverts the **constitutional sequence of law enforcement** by jumping from allegation directly to punishment, without investigation or adjudication — the state becomes investigator, judge, and executioner at once.
    - This dissolution of powers violates the **doctrine of separation of powers**, which is a basic feature of the Indian Constitution — the executive cannot assume the functions of the judiciary.

- The practice amounts to a **colourable exercise of power** — using lawful municipal authority (demolition of unauthorised structures) for an impermissible or politically motivated objective (punishing an accused person).
- Demolitions carried out immediately after an alleged offence — often before investigations are even completed — **blur the line between punishment and extrajudicial state action**, substituting spectacle for procedure.

2. **Infringement of Fundamental Rights Under the Constitution**
   - **Right to Shelter (Article 21):** The right to life and personal liberty includes the **right to dignified shelter**; sudden punitive evictions permanently destroy a family's **socioeconomic security and livelihood**, violating the most **basic constitutional guarantee.**
   - **Right to Property (Article 300-A):** The Constitution mandates that no person shall be deprived of their property except by **authority of law**, which necessitates a fair procedure before any state seizure or destruction of property.
   - **Right to Equality (Article 14):** When authorities **selectively raze the properties of specific communities** or political dissenters while ignoring similar violations by others nearby, it constitutes a gross violation of the right to equal protection under the law.
   - **Presumption of Innocence: Every accused person is presumed innocent until proven guilty** — punitive demolitions before a trial effectively declare the accused guilty without a court's verdict, violating this foundational principle of criminal jurisprudence.
3. **The Problem of Collective Punishment**
   - Demolishing shared homes **punishes innocent family members** — including children, elderly, and non-involved relatives — for the alleged crime of one individual, violating the principle of **individual criminal liability** that is central to Indian criminal law.
   - Such collective punishment is not only alien to Indian law but also violates the **Geneva Convention 1949**, which explicitly prohibits collective punishments, and the **International Covenant on Civil and Political Rights (ICCPR)**, which affirms that no one shall be arbitrarily deprived of property.
4. **The State's Own Complicity: A Question that Cannot Be Ignored**
   - If demolitions are justified on grounds of **unauthorised construction**, then a critical question arises: why did the government allow the structure to be built in the first place?
   - This reflects **systemic municipal corruption and administrative failure** — the same state that permitted the structure through inaction or complicity cannot selectively invoke building regulations as a post-hoc pretext for punishment.
5. **Long-Term Erosion of Institutional Trust and Democratic Norms**
   - The image of **swift destruction creating an impression of decisive leadership** normalises the idea that **executive authority can override legal safeguards** whenever **public anger** demands immediate retribution.
   - Over time, this risks **weakening institutional credibility** and erodes citizens' trust in lawful processes, as people begin to accept that the law is selectively applied based on political power rather than impartial procedure.

- As a result, the state reducing itself to the level of **vigilante groups** — handing out **instant punishment outside the law** — fundamentally undermines the constitutional compact between the state and its citizens.

Way Forward: Strengthening Rule of Law Instead of Bypassing It

1. **Immediate Judicial and Legislative Safeguards**
   - High Courts and district judiciaries must proactively exercise **suo motu writ jurisdiction** to issue **pre-emptive stays** when **patterns of targeted demolitions** emerge following **communal clashes or political protests.**
   - **State legislatures must amend municipal laws** to explicitly codify the **proportionality doctrine**, making **demolition legally permissible only as an absolute last resort** when the structure poses an **immediate public hazard** and cannot be regularised through other means.
   - The **Representation of the People Act, 1951** should be amended to classify public endorsement or ordering of extrajudicial demolitions by elected representatives as a **corrupt electoral practice**, creating democratic accountability for political misuse.
2. **Structural Institutional Reforms**
   - India must urgently work towards achieving the Law Commission's recommended ratio of **50 judges per million people** by filling over 6,000 judicial vacancies, expanding court infrastructure, and allocating higher budgetary resources to the judiciary.
   - Cases involving heinous crimes must be **mandatorily assigned to Fast-Track Courts** with frequent hearings and fixed disposal timelines, ensuring that the demand for 'quick justice' is met through institutional speed rather than extrajudicial shortcuts.
   - Independent **Municipal Property Tribunals** should be established so that all final demolition orders are vetted by quasi-judicial bodies before execution, stripping local civic bodies of absolute and unchecked adjudicatory power.
3. **Adopting International Standards**
   - India should statutorily adopt the **United Nations Basic Principles and Guidelines on Development-Based Evictions and Displacement (2007)**, which strictly prohibit forced evictions as a punitive measure and mandate comprehensive rehabilitation before any state-led demolition.
   - Strengthening **investigative and prosecutorial capacity** — by modernising **forensic infrastructure, improving police-to-population ratios**, and ensuring independent prosecution — will reduce the systemic delays that make extrajudicial shortcuts appear attractive to the public.

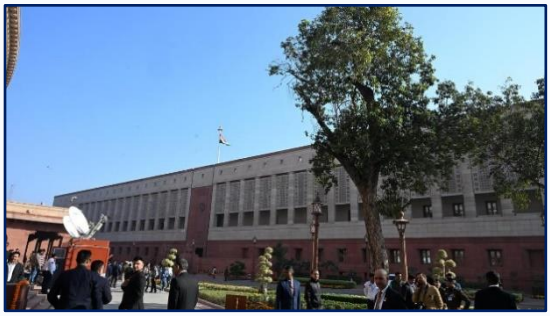
Conclusion

Although **bulldozer justice** may project an image of swift and decisive governance, it fundamentally undermines the **rule of law, constitutional order, and due process**, thereby weakening the very foundation of a democratic state. Therefore, true legitimacy lies not in the speed of punishment but in **fairness, legality, and strong institutions**, and hence strengthening these institutions rather than bypassing them is essential to ensure **justice, accountability, and public trust**.

Q. *Judicial delays are often cited as a justification for 'instant justice'. Evaluate whether bulldozer justice can be seen as a consequence of systemic weaknesses in India's judicial system. (15 Marks)*

2.1.2. LEGAL FICTION AND PARTY MERGERS UNDER THE TENTH SCHEDULE

Context:



- Laws sometimes use a **legal fiction**, as a deliberate pretence that helps the law achieve a fair result. For example, treating a **registered company as a living person** who can sue and be sued, even though a company is obviously not a human being.
- However, **when a legal fiction is stretched far beyond the purpose for which it was created**, it stops being a useful tool and becomes a **dangerous grant of power** and this is exactly what is now happening in India with how the **merger clause** of the **anti-defection law** is being read.

Background: What the Constitution Says About Defections and Mergers

A. The Tenth Schedule — India's Anti-Defection Law

- **What is the Tenth Schedule?** Added by the **52nd Constitutional Amendment in 1985**, it says that a legislator who leaves their party or votes against party instructions will lose their seat in the legislature. This was done to stop **political horse-trading** and defections driven by personal greed or pressure.
- **What is the Exception for Mergers?** Under **Paragraph 4** of the Tenth Schedule, a legislator is **not disqualified** if their original political party actually merges with another party, the logic is that a genuine merger is a party decision, not an individual act of betrayal.
- **What Does 'Deemed Merger' Mean? Paragraph 4(2)** contains a **deeming clause**. It says a merger 'shall be deemed to have taken place if, and only if' **at least two-thirds of the legislature party** agrees to it.
  - The key point is that this two-thirds count is meant to be a **way of checking** whether a real merger has happened at the party level — it is **not the merger itself**.
  - The **actual merger decision** must come from the **original political party's own organisation** — its leadership, general body, or constitution — and the two-thirds threshold only serves as evidence of that.

B. Evolution of the Doctrine of Legal Fiction in India

- **Bengal Immunity Co. Ltd. vs State of Bihar (1955):** A landmark ruling by a **seven-judge Constitution Bench** of the Supreme Court that set the gold standard for interpreting legal fictions in India.
  - The case involved **a tax dispute** where Bihar tried to use a **deeming clause** in the Constitution to tax inter-State sales, the Supreme Court said no, because deeming clauses have **a specific, limited purpose** and cannot be stretched beyond it.

- Acting Chief Justice S.R. Das gave the governing rule: **"A legal fiction is created for a definite purpose, must be limited to that purpose, and must not be extended beyond its legitimate field."**
- **Rajendra Singh Rana vs Swami Prasad Maurya (2007):** A **Constitution Bench** of the **Supreme Court** applied this logic to the **Tenth Schedule** itself, clearly holding that the **Speaker has no independent power** to recognise a merger, and that legislators' votes alone cannot substitute for a genuine decision by the original political party.
- **Registrar Cane Cooperative Societies vs Gurdeep Singh Narwal (March 10, 2026):** The Supreme Court once again **reaffirmed** the **Bengal Immunity principle,** a deeming clause works only for the purpose it was designed for and cannot be expanded to undo things it was never meant to touch.

Why the Discipline of Legal Fiction is Important in Indian Democracy

- **Protects the Core Purpose of the Anti-Defection Law:** The entire reason the Tenth Schedule was added to the Constitution was to prevent individual legislators from **switching sides for personal gain,** if a small group of legislators can declare a 'merger' without their parent party's approval, this purpose is completely defeated.
- **Upholds the Meaning of 'Merger' as a Genuine Party Decision:** A real merger means the **entire party organization** (its leadership and members) decides to join another party; allowing a faction of legislators to call their group-defection a 'merger' is like a few branches of a tree claiming they are the whole tree.
- **Maintains the Integrity of the Legislature:** When legislators can shift parties under the cover of a fake merger, **manufactured majorities** become possible, governments can be toppled or formed not through genuine public mandate but through **engineered floor-crossings**, which undermines representative democracy itself.
- **Keeps Legal Fictions Honest:** As the **philosopher Lon Fuller** warned in **Legal Fictions (1967)**, a fiction is only useful when people acknowledge **it is a fiction, the moment a pretence is treated as real fact, it becomes dangerous; reading the two-thirds threshold as the merger itself is exactly this mistake.**

Challenges: How the Legal Fiction Is Being Misread in Practice

- **Bombay High Court (Goa Bench):** The **supreme court** twice upheld **merger orders based solely on a two-thirds resolution of legislators**, without requiring proof of a merger at the original party level; the January 2025 decision is **currently under challenge before the Supreme Court**.
- **Presiding Officers Recognising Mergers:** The **Rajya Sabha Chairman accepted the merger** of **seven Aam Aadmi Party MPs with the BJP** based only on the legislators' vote count with no proof of a merger decision by the AAP as a political party; the **AAP has filed a disqualification petition**, which, if tested against Bengal Immunity and Rana, should result in the merger being rejected.
- **Doctrinal Danger — Fiction Becoming Fact:** When a deeming clause is read as **constitutive** (creating the merger itself) rather than **evidentiary** (verifying a merger that already happened at the party level), the fiction ceases to be a tool and becomes a **substantive grant of power to a faction of legislators**.

- **Speaker's Vulnerability to Political Pressure:** Given that **Speakers** are themselves party members, the absence of judicial clarity on the merger clause leaves **adjudication of disqualification petitions vulnerable** to partisan interpretation, weakening the constitutional design of the Tenth Schedule.
- **Lack of Rigorous Supreme Court Ruling on the Merger Exception:** While **Bengal Immunity** and **Rana** together provide a clear framework, the Supreme Court has **not yet applied that discipline specifically and rigorously to Paragraph 4(2)** of the **Tenth Schedule** and this gap allows divergent **High Court** and **presiding-officer rulings** to persist.

Global Best Practices: How Other Democracies Handle Party Defections and Mergers

1. **South Africa — Independent Tribunal Model: South Africa's Electoral Court**, an **independent judicial body** separate from **Parliament**, adjudicates disputes over **party membership, floor-crossing, and mergers**. This removes the decision from the hands of the Speaker and ensures **impartial, timely rulings** that are not influenced by the ruling party.
    - **India's Law Commission (170th and 255th Reports)** has also recommended replacing the **Speaker's adjudicatory role** with an independent tribunal — South Africa's model is a working example of how this can be done effectively.
2. **Germany — Strict Party Constitution Requirements for Mergers:** In Germany, a merger of political parties is valid only if it follows the **internal procedures mandated by each party's own constitution**, including **a formal vote by the party's national congress**, not just its legislators; this ensures that **the party organisation, not just its elected members**, owns the merger decision.
    - This is exactly the distinction **India's Supreme Court drew in Rana (2007) — Germany** operationalises it through **clear statutory requirements** under the Political Parties Act, 1967 (Parteiengesetz), making manipulation far harder.

Way Forward for Strengthening Constitutional Discipline in the Interpretation of Party Mergers

- **Supreme Court Must Give a Clear, Specific Ruling on Paragraph 4(2):** A **Constitution Bench** should authoritatively settle that the **two-thirds threshold** in **Paragraph 4(2)** is only a **verification mechanism,** the original political party must independently prove, through documented evidence, that it has decided to merge; this ruling should be binding on all courts and presiding officers.
- **Election Commission Should Lay Down Proof Requirements for Mergers:** The **Election Commission of India** should issue clear guidelines requiring a party seeking recognition of a merger to submit **formal party-body resolution, notification under the party's constitution**, and **ECI acknowledgement,** before any **Paragraph 4** protection is granted to any legislator.
- **Replace the Speaker with an Independent Tribunal for Disqualification Cases:** As recommended by the **Law Commission** and illustrated by South Africa's model, an **independent constitutional tribunal** should decide all anti-defection and merger disputes, removing political bias from the process entirely.

- **Set a Time Limit for Deciding Disqualification Petitions:** The **Supreme Court** should make it mandatory for **all disqualification petitions**, including those related to mergers, to be decided within **90 days,** delays allow merged legislators to consolidate before courts can correct the wrong.
- **Parliament Should Amend the Tenth Schedule for Clarity:** An **Explanation should be added to Paragraph 4** through a constitutional amendment, making it explicit that the two-thirds count verifies an already-completed party-level merger — it does not create one; this removes ambiguity from the text itself and closes the loophole permanently.

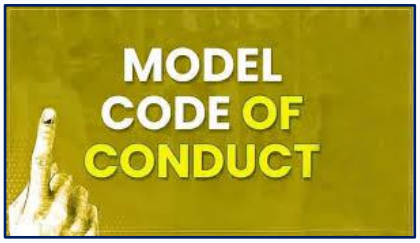
Conclusion

- The doctrine of **legal fiction** is a constitutional safeguard designed to ensure limited and disciplined interpretation of deeming provisions. Expanding such fiction beyond its intended purpose weakens constitutional governance and democratic accountability.
- Unless courts and constitutional authorities strictly apply the principles governing legal fiction to the **Tenth Schedule**, the **anti-defection law** may gradually become an instrument for legitimising defections rather than preventing them.

Q. *The misuse of legal fiction under the merger exception of the Tenth Schedule threatens the very purpose of the anti-defection law. Critically examine. (15 Marks)*

2.1.3. MODEL CODE OF CONDUCT AND THE INTEGRITY OF ELECTORAL DEMOCRACY IN INDIA

Context:



- **Free and fair elections** are the bedrock of a constitutional democracy, and the **Model Code of Conduct (MCC)** is India's primary institutional safeguard to ensure that the power of the state is never weaponised in favour of those who hold it during an election.
- However, the **recent controversy surrounding the live broadcast of a senior constitutional authority** on **publicly funded media platforms** — **Doordarshan, Sansad TV**, and **All India Radio** — during an active election period, in which specific opposition parties were named and a particular voter group was urged to vote against them, has has renewed critical questions about the scope, enforceability, and institutional will behind the MCC and the statutory framework under the **Representation of the People Act, 1951**.

Background: Understanding Model Code of Conduct and its Evolution

A. What is Model Code of Conduct (MCC)?

The MCC is a **non-statutory guidelines** issued by the **Election Commission of India** governing the **behaviour of political parties**, **candidates**, and the **party in power** during the **period of general elections or state assembly elections**. It **comes into effect** from the **date of announcement of the election schedule** and remains **operative until the completion of the electoral process**. It derives authority from **constitutional principles** rather than direct legislation.

- **Applicability:** The MCC applies to **all recognised political parties**, their **candidates, star campaigners**, and the **government of the day** — at both the **central and state levels** — as soon as elections are announced by the Election Commission.
- **Non-Statutory but Enforceable Nature:** The MCC **does not** have the **status of a formal law enacted by Parliament**; however, it derives its **enforceability from the constitutional powers** vested in the **Election Commission** under **Article 324**, and violations can attract serious consequences including censure, restraint orders, and in extreme cases, **suspension of party recognition** under **Paragraph 16A of the Election Symbols Order, 1968.**
- **Objectives of the Model Code of Conduct**:
  - The Code aims to ensure **free and fair elections** by preventing undue influence.
  - It seeks to create a **level playing field** between ruling and opposition parties.
  - It aims to prevent misuse of **government resources, public funds, and official authority**.
  - It promotes **ethical political conduct and accountability**.

B. Evolution of the Model Code of Conduct

- **Kerala's Initiative (1960):** The MCC traces its origins to a **behavioural code** first drafted by the **Government of Kerala in 1960** — the **earliest attempt** in independent India to **codify norms of acceptable electoral conduct at the state level.**
- **Election Commission's Formalisation (1968 and 1974):** The **Election Commission of India formally adopted and circulated the MCC** as a national instrument in 1968 and revised it in 1974, giving it the **character of a universal standard applicable to all political parties, candidates, and governments across the country**.
- **Addition of Part VII (1979):** The most consequential structural reform came in 1979 with the addition of **Part VII**, which s**pecifically** governs the **conduct of the 'party in power.' Clauses 1(a), 1(b), and 4 of Part VII** prohibit the **ruling party** from **combining official government visits** with **electioneering, using government machinery or personnel for campaign work**, and **misusing publicly funded mass media** for **partisan or one-sided political coverage** during the **election period.**
- **Strict Enforcement Era (1991 onwards):** The MCC underwent a transformative shift under former **Chief Election Commissioner T.N. Seshan**, whose tenure from 1991 converted the Code from a largely symbolic document into an actively enforced instrument, marking the beginning of robust electoral governance in India.

Key Judgements with respect to Model Code of Conduct

- **Article 324 of the Indian Constitution** grants the Election Commission of India superintendence, direction, and control over the conduct of elections to Parliament and state legislatures. It enables the Commission to act in situations where **statutory law remains silent.**
- **Mohinder Singh Gill v. Chief Election Commissioner (1978):** The Supreme Court, in **Mohinder Singh Gill v. Chief Election Commissioner (1978)**, described **Article 324 as a 'reservoir of power'** that enables the ECI to act in situations where Parliament has not specifically legislated, providing the constitutional backbone for the MCC's enforceability.

- **Harbans Singh Jalal v. Union of India (1997):** The **Punjab and Haryana High Court**, in **Harbans Singh Jalal v. Union of India (1997)**, further clarified that the MCC comes into **legal force** from the moment the election schedule is announced — establishing a clear temporal boundary for its operation.

Statutory Provisions under the Representation of the People Act, 1951

While the MCC operates as an **administrative and quasi-legal instrument**, the **Representation of the People Act, 1951** provides the **statutory backbone for electoral conduct** through **provisions on corrupt practices**:

- **Section 123(3) and Identity-Based Appeals**: This provision declares it a **corrupt practice** to appeal to voters on grounds such as **religion, caste, community, race, or language**. However, it remains limited to specific categories and does not cover all forms of political messaging.
- **Section 123(7) and Use of Government Machinery**: This provision prohibits candidates from obtaining assistance from **government servants** for electoral advantage. It becomes relevant when questions arise regarding the use of **public institutions or officials** in election-related communication.

Significance of Model Code of Conduct

- **Ensuring Electoral Neutrality**: The Code ensures that governance remains **neutral during elections**, preventing the ruling party from gaining undue advantage.
- **Maintaining Level Playing Field**: By restricting misuse of state resources, it creates **equal opportunities for all political actors**, strengthening democratic competition.
- **Promoting Ethical Political Behaviour**: It encourages political parties to adhere to **standards of integrity and restraint**, thereby improving the quality of electoral discourse.
- **Filling Gaps in Legal Framework**: Since **statutory provisions cannot cover every scenario**, the Code acts as a **flexible instrument** to regulate emerging practices such as mass media outreach.
- **Strengthening Public Trust in Elections**: When implemented effectively, the Code enhances **citizens' confidence** in the **fairness of electoral processes**.
- **Regulating Campaign Environment**: It prevents excessive use of **money, media, and influence**, ensuring that **elections are decided on merit** rather than advantage.

Key Challenges in Enforcement of the Model Code of Conduct

- **Ambiguity in the Use of Public Resources during Elections**: The recent debate highlights a major challenge in clearly defining what constitutes **misuse of publicly funded media**.
  - While **Part VII of the Model Code of Conduct** prohibits the ruling party from using government machinery for campaign purposes, the absence of precise guidelines on **public broadcasting and official communication** creates interpretational gaps.
  - This makes it difficult to conclusively determine whether certain broadcasts fall under governance or electioneering.
- **Overlap between Official Communication and Political Messaging**: A significant issue arises when **official addresses delivered through state platforms** contain elements that may influence

voters. The challenge lies in distinguishing between **legitimate governance-related communication** and **indirect electoral appeals**, especially when such messages are disseminated through public broadcasters during the election period.

- **Limitations of Statutory Provisions in Addressing Emerging Issues**: The **Representation of the People Act, 1951** primarily regulates electoral appeals based on specific identity factors such as religion, caste, community, race, and language.
  - However, recent developments show that electoral messaging may operate on **different axes such as gender or policy-based persuasion**, which fall outside the explicit scope of the law. This creates a gap between **legal provisions and evolving campaign strategies**.
- **Uncertainty regarding the Use of Government Personnel and Institutions**: Questions arise about whether the involvement of **public broadcasters or official staff in disseminating political messages** amounts to electoral assistance.
  - While the law prohibits the use of **government servants for electoral gain**, its applicability to institutional mechanisms like media platforms remains unclear, leading to legal ambiguity.
- **Non-Statutory Nature and Limited Penal Consequences**: The Model Code of Conduct does not have **legal enforceability**, which limits the scope of punitive action. The Election Commission can issue warnings or censures, but the lack of strong penalties reduces the **deterrence capacity** of the Code.
- **Expanding Scope of Media and Communication Platforms**: The increasing use of **mass media and digital platforms** has made monitoring more complex. The Code was designed in a different communication environment, and its provisions often struggle to keep pace with **modern campaign techniques and large-scale broadcasting tools**.

Global Best Practices in Electoral Conduct Regulation

- **United Kingdom — Statutory Framework and Strong Enforcement**: The United Kingdom follows a **fully statutory electoral framework** under the **Political Parties, Elections and Referendums Act**. The **Electoral Commission** has clear legal authority to ensure **transparency, financial regulation, and penalties**, which provides a strong **deterrent effect**.
- **Germany — Clear Separation between State and Party**: Germany maintains a strict separation between **state resources and political parties**. The use of **government staff, public funds, or state media** for campaigning is prohibited, and violations attract **legal and criminal consequences**.
- **South Africa — Empowered Independent Electoral Body**: South Africa's **Independent Electoral Commission** operates with wide powers, including the ability to **impose fines, disqualify candidates, and initiate prosecution**. This ensures **effective and time-bound enforcement**.

Way Forward: Strengthening Model Code of Conduct

- **Give Legal Status to the Model Code of Conduct**: Parliament should convert the **Model Code of Conduct** into a **law with clear penalties**. This will ensure **strong enforcement** and reduce dependence on voluntary compliance.

- **Clarify Status of Public Broadcasters under Election Law**: There should be clear rules on whether **public broadcasters** like Doordarshan and All India Radio fall under **government servants** in election law. This will help in fixing **accountability for misuse of state media**.
- **Prior Approval for Official Broadcasts during Elections**: The Election Commission should require **mandatory approval** before any official speech is broadcast on public platforms during elections. This will ensure **neutrality and prevent indirect campaigning**.
- **Reform Appointment Process of Election Commissioners**: The process of selecting Election Commissioners should be made **transparent and independent**. Involving multiple institutions will strengthen **credibility and impartiality**.
- **Create Fast Track Mechanism for Election Disputes**: A dedicated system should be set up to resolve **election related complaints quickly**. This will ensure **timely justice during the election period itself**.
- **Extend Rules to Digital and Social Media Platforms**: The Model Code of Conduct should cover **social media, digital campaigns, and new technologies**. Clear rules are needed to prevent **misinformation and misuse of data**.

Conclusion

The **Model Code of Conduct** remains one of India's most important yet institutionally fragile instruments for protecting the integrity of democratic elections, and its effectiveness ultimately depends less on the sophistication of its provisions than on the independence and resolve of the Election Commission to enforce it impartially. Strengthening the MCC through **statutory codification, institutional reform, and judicial oversight** is not merely a technical electoral reform — it is a **fundamental prerequisite** for **sustaining the democratic compact that underpins India's constitutional republic.**

Q. *The Model Code of Conduct acts as a moral and administrative framework rather than a legal instrument. Critically analyse its effectiveness and suggest measures to strengthen its enforcement in India's electoral system. (15 Marks)*

2.1.4. STANDARDISING INDIA'S DATA ECOSYSTEM

Context:

- India today generates more data than at any point in its history, yet this abundance has not translated into effective governance because data without standardisation is merely **noise, not intelligence.**
- The real challenge facing India's policy architecture is not the lack of data, but the absence of common rules, shared definitions, and interoperable systems that can convert raw data into **accountable, efficient governance.**

Background: Why India's Data Governance Debate Has Become Important

1. **Parliamentary Questions Reveal Structural Weaknesses in India's Data Ecosystem**
   - A large number of **parliamentary questions** continue to ask for basic administrative information such as beneficiaries of schemes, functional toilets in schools, pensions disbursed, and district-wise implementation figures.
   - Ideally, such information should already exist in a transparent, **standardised**, and publicly accessible format through **digital governance systems**.
2. **India Produces More Data Than Ever Before, Yet Usability Remains Weak**
   - **India's rapid digitisation** through platforms such as **Aadhaar**, **DBT systems**, **PM-KISAN**, health registries, and welfare databases has led to unprecedented **data generation**.
   - However, data abundance has not translated into efficient governance because ministries continue to use different formats, definitions, indicators, and methodologies.
   - Even basic variables such as **region, time period, beneficiary category, or scheme classification** are often defined differently by separate departments.
3. **NITI Aayog Has Already Recognised the Problem**
   - The **National Data and Analytics Platform (NDAP)** vision document highlighted that India's data ecosystem lacks **coherence and interoperability**.
   - The report pointed out that ministries fail to adopt **shared standards** for common indicators, making integration difficult and error-prone.
   - As a result, **data consolidation** becomes a laborious process, reducing reliability and delaying **evidence-based policymaking**.

Why Data Standardisation Is Important for Governance and Development

1. **Data Standardisation Helps in Reducing Fiscal Leakages in Welfare Schemes**
   - Welfare programmes lose money because the same beneficiary is counted more than once in the database. According to a **NITI Aayog report (June 2025)**, welfare programme databases often list the same person multiple times. This causes **fiscal leakages of 4% to 7% every year**. It is a direct result of data duplication across Ministries.
2. **Better Data Quality Saves Large Amounts of Public Money**
   - Government data clean-up exercises show how much money is lost when data quality is poor. Removing **17.1 million ineligible names from PM-KISAN** was expected to save **Rs. 90 billion in FY2024**.
   - Deleting **35 million bogus LPG connections** could save **Rs. 210 billion over two years**. Eliminating **16 million fake ration cards** may save around **Rs. 100 billion every year**.
3. **Standardised Health Data Improves Disease Management and Policymaking**
   - In the health sector, recording the same patient in multiple systems gives wrong disease numbers to policymakers. Childhood **tuberculosis (TB)** cases are entered separately in the **Health Management Information System (HMIS)**, the disease surveillance network, and the immunisation registry.

- The same patient gets counted multiple times in each system. This creates conflicting estimates and pushes decision-makers to rely on guesswork rather than data.

4. **Reliable Data Strengthens India's Global Credibility and Rankings**
   - When data is missing or outdated, India loses credibility on global rankings and performance indices. In the **Global Innovation Index 2024**, India had missing data for two indicators and outdated data for eight indicators. Several of these figures were more than a year old. This hides India's real progress and shows a clear failure in coordination between government agencies.
5. **Efficient Data Governance Contributes Directly to Economic Growth**
   - Poor data governance has a real and measurable economic cost for the country. The **OECD** estimates that improving public sector data availability and sharing can add up to **1.5% of GDP** to a country's economy.
   - This can go up to **2.5%** when private sector data is also included. This means weak data governance is not just a paperwork problem. It directly reduces national economic growth.

Major Challenges in India's Data Governance Ecosystem

1. **Silo-Based Data Collection Prevents Effective Inter-Ministerial Integration:** Ministries collect data in **silos**, making **meaningful integration across departments extremely difficult**. Each Ministry collects data for its own programmes using its own definitions, formats, and time periods — this siloed **data architecture** means that even when data exists, it cannot be combined meaningfully or verified across departments without painstaking and error-prone manual effort.
2. **Absence of a Central Authority Weakens Standardisation and Uniformity:** There is **no binding authority to enforce common definitions** and **data standards** across the system. In the **absence of a single empowered agency with real enforcement powers, departments continue to define even basic attributes,** such as what constitutes a **"beneficiary"** or what time period a figure refers to differently, making inter-departmental comparisons and consolidations structurally unreliable.
3. **Data Quantity Has Increased, but Data Usability Remains Weak: Data abundance** does not automatically translate into **usable or policy-relevant information**. India generates unprecedented volumes of data through **digital transactions, welfare databases, and public registries,** yet the core problem is not quantity but **usability**: data that cannot be integrated, verified, or compared is operationally worthless for governance.
4. **Conflicting Data Estimates Weaken Trust in Evidence-Based Policymaking:** When different systems produce contradictory estimates for the same phenomenon such as **TB prevalence** or employment rates the institutional response is often to abandon **evidence-based decision-making** altogether, replacing data with anecdote or political intuition, which only compounds the governance failure over time.
5. **India's Open Data Platform Lacks Scale and Real-Time Governance Utility:** India's open data platform lacks the scale, structure, and regularity needed to serve governance. The government's open data portal **data.gov.in** exists but is not consistently updated, lacks **schema-consistency** across uploaded datasets, and is not equipped to serve the real-time, district-level data needs of Parliament or policymakers.

Role of the National Data Governance Framework Policy (NDGFP)

1. **The NDGFP Can Become the Foundation of India's Data Reform Architecture**
   - The **National Data Governance Framework Policy (NDGFP)** seeks to establish structured data management practices across government systems.
   - Its objective is to improve accessibility, interoperability, quality, and responsible sharing of public data. Moreover, the framework recognises that governance efficiency depends increasingly upon reliable and standardised datasets.
2. **India Data Management Office (IDMO) Can Become the Central Coordinating Institution**
   - The proposed **India Data Management Office (IDMO)** under NDGFP has the potential to become the nodal institution for data governance reforms.
   - The IDMO can establish common standards, protocols, metadata frameworks, and interoperability guidelines across ministries and States. It can also create uniform practices for data collection, storage, sharing, and updating.

Global Best Practices in Data Governance and Standardisation

1. **Estonia: Integrated Digital Governance Through Interoperable Data Systems**
   - Estonia has developed one of the world's most advanced **digital governance systems** through its **X-Road interoperability platform**, which allows different government databases to communicate securely with each other in real time.
   - Citizens do not need to repeatedly submit the same information to different departments because all Ministries follow common **data standards** and integrated digital architecture.
2. **Singapore: Whole-of-Government Data Sharing Model**
   - Singapore follows a **Whole-of-Government (WOG)** approach where Ministries and agencies share standardised datasets through centrally coordinated digital governance systems.
   - The government has established strong institutional mechanisms under the **Smart Nation Initiative** to ensure common definitions, metadata standards, and coordinated policymaking across sectors.

Way Forward for Building a Data-Ready Governance Architecture for India

1. **Empower the India Data Management Office (IDMO):** The **India Data Management Office (IDMO)** must be empowered as the central authority on **data standards**.
   - Under the **National Data Governance Framework Policy (NDGFP)**, the proposed IDMO has the potential to serve as the keystone institution, but **only if it is given real authority to set binding standards, audit compliance across Ministries,** and **resolve definitional disputes between departments**; **without enforcement powers, IDMO risks becoming advisory rather than transformational.**
2. **Align India's Data Systems with Global Standards:** India must align its statistical frameworks with internationally recognised **global standards**.
   - Aligning with frameworks such as the **UN's System of National Accounts (SNA)** for economic indicators and developing a **National Statistical Standards Manual** that harmonises definitions and practices across **all States and Union Territories** will create the methodological consistency that currently does not exist.

3. **Transform data.gov.in into a Real-Time Integrated Repository: data.gov.in** must be upgraded into a **centralised, schema-consistent, real-time data repository**. The government's open data platform should be transformed into a **repository** where all Ministries are required to upload datasets in standardised, machine-readable formats on a regular schedule, enabling **public transparency** and **allowing parliamentarians to access verified, district-level figures in real time.**
4. **Institutionalise Accountability Through Annual Benchmarks: NITI Aayog's Data Governance Quality Index (DGQI)** should be made an annual benchmark tied to performance reviews and financial incentives for both **Ministries and State governments** because healthy competition on **data quality** can drive systemic change just as powerfully as economic competition drives market efficiency.
5. **Build a Strong Data Culture Within Government Institutions:** Beyond policies and platforms, India needs to build institutional capacity, training **data stewards** within every Ministry, establishing **clear data ownership frameworks**, and embedding **data quality** as a core governance value rather than a technical afterthought.
6. **Institutional Authority Will Determine Success:** The IDMO must be empowered with **statutory and operational authority** rather than functioning as a merely advisory institution. It should possess **powers to audit compliance, resolve disputes regarding methodologies**, and **enforce common standards across ministries**.

Conclusion

Data standardisation is not a technical exercise reserved for statisticians, it is, as described, the **grammar of governance** that a nation aspiring to become a **$5 trillion economy** must get right at every level of administration. India must commit to the standards, systems, and institutional stewardship needed to make its data not just abundant, but **fit for purpose and fit for its future.**

Q. *Discuss how fragmented data systems weaken evidence-based policymaking and democratic accountability in India. Suggest institutional reforms needed to strengthen data governance. (15 Marks)*

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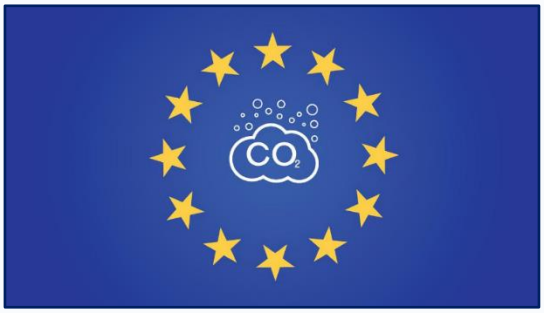
GENERAL STUDIES 3

3.1. ENVIRONMENT

3.1.1. CARBON MONEY MUST STAY AT HOME

Context:



- The **European Union's Carbon Border Adjustment Mechanism (CBAM)** which came into full force on **January 1, 2026** is **Europe's bold climate instrument**, but for developing nations like India, it increasingly resembles a trade barrier dressed in green clothing.
- The deeper question is not whether carbon pricing is legitimate, but whether India will remain a passive rule-taker or assert itself as a sovereign rule-maker in the rapidly unfolding global green economy.

Background: Understanding the EU's Carbon Border Adjustment Mechanism (CBAM)

- **What is CBAM?:** The **Carbon Border Adjustment Mechanism (CBAM)** is the EU's policy to impose a carbon cost on imports of certain goods entering Europe, placing them on par with **EU-produced goods** that already pay a price for their carbon emissions under the **EU Emissions Trading System (ETS),** the **world's largest carbon market**, operational **since 2005**.
- **EU ETS as the Foundation: European producers** must purchase **carbon allowances** corresponding to their **greenhouse gas emissions**. Imported goods traditionally carried no equivalent carbon cost, giving them a price advantage — CBAM eliminates this gap by pricing the embedded carbon in imports at the point of entry.
- **Core Objective:** CBAM aims to **create a level playing field** by pricing the **embedded carbon in imports at the EU border**, aligning trade with climate goals.
- **Key Policy Linkages:** CBAM is closely tied to the EU's **Green Deal** and its goal of achieving **net-zero emissions by 2050**.
  - It is also connected to global trade rules under **General Agreement on Tariffs and Trade (GATT)**, particularly **Article III (National Treatment)**.
- **Sectoral Coverage:** Initially applies to **six carbon-intensive sectors like steel, aluminium, cement, fertilisers, electricity, and hydrogen** with plans to expand to **around 180 additional products** in future.
- **Implementation Timeline:** CBAM had a transitional reporting phase **from October 2023 to December 2025**. The **full compliance phase** began **January 1, 2026**.
  - **Free carbon allowances for EU producers** under ETS will be phased out gradually from **2026 to 2034**, progressively raising effective carbon costs for EU industry even as CBAM tightens on imports.
- **Working Mechanism:** Importers must buy **CBAM certificates** linked to the EU ETS price, currently averaging around **€50–65 per tonne of CO_2**, making it a **significant trade cost**.
  - Moreover, if a carbon price has already been paid in the country of origin, it may be **deducted under Article 9 of CBAM Regulation**.

- **Implications for India:** India's exports of **steel and aluminium to the EU (over USD 8 billion annually)** fall directly under CBAM. Estimated **additional cost of USD 100–150 per tonne on steel exports** could **erode competitiveness** in the EU market.

Key Challenge for India

- **Subsidy Asymmetry — EU Producers vs Indian Exporters**: European producers enjoy **massive decarbonisation subsidies, subsidised public finance**, and **continue receiving free ETS allowances even as CBAM phases in** effectively **lowering their real carbon cost**. **Indian exporters**, by contrast, receive **no equivalent state support** and must bear the full CBAM charge, creating a structurally discriminatory financial burden.
- **WTO and GATT Compatibility Concerns**: CBAM's design sits uneasily with **GATT Article III (General Agreement on Tariffs and Trade),** which **prohibits deploying internal charges to shield domestic producers from fair competition**. Since EU producers simultaneously receive subsidies while paying lower effective carbon costs during the ETS transition, **CBAM** may constitute **disguised protectionism** rather than genuine carbon equalisation.
- **No FTA Exemption for India**: The **India-EU Free Trade Agreement (FTA),** whose negotiations concluded on **January 27, 2026**, grants **no CBAM exemption to India**. The EU was unequivocal no country receives country-specific flexibility leaving India fully exposed to CBAM despite a landmark new bilateral trade framework.
- a direct affront to the principle of climate justice, which holds that developing nations should not subsidise developed-country decarbonisation at the expense of their own economic growth.
- **Sovereignty Over Carbon Policy at Stake**: CBAM gives the **EU extraterritorial power** to price **carbon on India's exports** denying India the sovereign right to design its own climate transition at its own pace, on its own terms, and using its own resources. A country that cannot shape the carbon price on its exports risks becoming permanently subordinate in global green governance.

India's Strategic Response: CCTS, CBAM Article 9, and the India Border Adjustment Mechanism (IBAM)

India is not starting from zero. The country has already laid the foundation of a domestic carbon pricing system through the **Carbon Credit Trading Scheme (CCTS)**, and the proposed **India Border Adjustment Mechanism (IBAM)** offers a legally grounded, financially sound, and diplomatically viable strategy to convert CBAM's threat into India's green opportunity.

- **Carbon Credit Trading Scheme (CCTS) — India's Domestic Carbon Market:** The **Carbon Credit Trading Scheme (CCTS)**, notified by the **Government of India in 2023 under the Energy Conservation (Amendment) Act, 2022,** establishes a **domestic carbon price through tradable certificates**. It will progressively cover **key industrial sectors**, including **steel, cement, and aluminium** — the same sectors targeted by CBAM providing India with a compliance-grade carbon market instrument recognised under international trade law.
- **CBAM Article 9 — The Legal Hook for India**: Under **CBAM Regulation Article 9,** European importers may deduct the carbon price already paid in the country of origin from their CBAM obligations. This is India's most important legal entry point if CCTS is formally recognised by the EU as a **credible carbon price**, **Indian exporters can offset part of their CBAM liability** against

domestic payments already made under CCTS, preventing double-taxation of the same carbon tonne.

- **FTA Annex 14-A — The Diplomatic Lever**: The **India-EU FTA's Annex on Carbon Border Measures (Annex 14-A)** establishes a **formal technical dialogue** on CBAM implementation, including how India's carbon price can be credited at the EU border. It also contains a **Most-Favoured-Nation (MFN) clause** any CBAM flexibility extended to any other country automatically extends to India — making this annex a living instrument India must actively use.
- **What Is IBAM?** The **India Border Adjustment Mechanism (IBAM)** is a proposed **policy instrument** under which India would impose its own **carbon-based export charge on CBAM-covered goods** at the point of export, collected domestically before the goods reach the EU border. This ensures that the carbon cost is paid inside India — keeping the revenue in Indian hands rather than at the EU border where it funds European budgets.
- **How IBAM Neutralises CBAM**: If **IBAM is properly sequenced through Annex 14-A negotiations** and formally recognised by the EU under CBAM Article 9, Indian exporters would face no higher net carbon cost than under CBAM alone. What would otherwise be an implicit levy collected in Europe becomes an explicit domestic payment fully offset at the EU border with the critical difference that every rupee raised stays in India.
- **Ring-Fenced Green Fund**: IBAM revenues must be mandatorily channelled into a dedicated, transparently governed Green Transition Fund, restricted to verifiable climate investments **modernising blast furnaces, expanding renewable energy capacity, scaling green hydrogen** and **scrap-based steelmaking**, and supporting **workers in carbon-intensive sectors during the transition.**

Global Best Practices: Lessons for India

- **United Kingdom — Domestic ETS Alignment**: The UK has its own domestic **Emissions Trading Scheme (UK ETS)** and is actively negotiating a CBAM-to-ETS linking arrangement with the EU that would allow UK exporters to avoid double-carbon charges demonstrating that pre-recognised domestic carbon pricing is the most effective defence against CBAM.
- **Canada — Comprehensive Carbon Pricing**: **Canada's federal Output-Based Pricing System (OBPS),** which covers industrial facilities above certain emission thresholds, is being positioned as equivalent to EU ETS for CBAM Article 9 credit purposes — showing that well-governed domestic carbon markets can be leveraged diplomatically to reduce CBAM exposure.
- **South Korea — ETS Maturity Advantage**: South Korea's **Korean Emissions Trading Scheme (K-ETS)**, one of Asia's most mature carbon markets operational since 2015, positions Korean exporters well for CBAM credit recognition — offering India a model of how a domestic market, built over time with regulatory rigour, becomes a powerful trade protection tool.

Way Forward: Strategy to Turn CBAM from a Threat into an Opportunity

- **Accelerate CCTS Implementation and Coverage:** India must fast-track the operationalisation of **Carbon Credit Trading Scheme (CCTS)** with credible **Monitoring, Reporting, and Verification (MRV) systems**, extending its coverage to all **CBAM-affected sectors — steel, aluminium,**

cement, fertilisers with **transparent price discovery mechanisms**. A well-functioning **CCTS** is India's primary instrument for claiming **CBAM Article 9 credits**.

- **Use Annex 14-A as a Proactive Diplomatic Tool:** India must treat the **India–European Union Free Trade Agreement's Annex 14-A** not as a footnote but as a **live negotiating table**. The **technical dialogue channel** must be used to pre-negotiate the recognition of both **CCTS** and **India Border Adjustment Mechanism (IBAM)** as credible carbon prices, and to establish **transparent currency conversion protocols (rupee-to-euro carbon price equivalence)**, ensuring **CBAM offsets** are legally secure before **IBAM** is launched.
- **Design IBAM Through Legislation, Not Executive Action: India Border Adjustment Mechanism (IBAM)** must be enacted through **dedicated parliamentary legislation** not executive notification to give it the **legal permanence and institutional credibility** that the **European Union** requires to recognise it under **Article 9**. The legislation must clearly define the **fund structure, revenue ringfencing, governance architecture, and audit obligations**.
- **Champion the Climate Justice Narrative in Multilateral Forums:** India must raise the **structural inequity embedded in CBAM** at the **World Trade Organization (WTO)**, **United Nations Framework Convention on Climate Change (UNFCCC)**, and the **Group of Twenty (G20)**, building coalitions with other **developing economies — South Africa, Brazil, Vietnam** who face similar **CBAM exposure**, to collectively demand a **Common But Differentiated Responsibilities (CBDR) carve-out** or a **development-country adjustment window within CBAM's Article 9 framework**.
- **Invest IBAM Revenues in Measurable Industrial Decarbonisation:** The credibility of **India Border Adjustment Mechanism (IBAM)** internationally depends entirely on what happens to its **revenues domestically**. India must establish a **ring-fenced, independently audited Green Transition Fund** with **annual public disclosures of carbon reductions achieved** — demonstrating to the **European Union**, to **Indian exporters**, and to the world that Indian **carbon revenues** are driving **real, verifiable decarbonisation**, not disappearing into general fiscal expenditure.

Conclusion

CBAM represents both a challenge and an opportunity for India to assert its **economic sovereignty and climate leadership**. By strategically implementing **IBAM and strengthening domestic carbon systems**, India can transform external pressure into a catalyst for a **self-driven green transition**.

Q. *The European Union's Carbon Border Adjustment Mechanism (CBAM) represents a shift from free trade to climate-linked trade regulation. Critically examine its implications for India's trade interests and global climate justice. 15 Marks*

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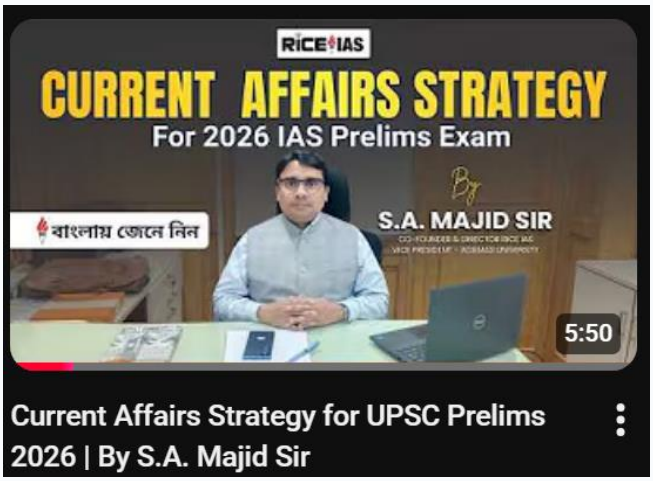

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