

CURRENT AFFAIRS SUPPLEMENT 7

CHIEF JUSTICE OF INDIA

Justice Sanjiv Khanna takes over as 51st Chief Justice of India

Justice Sanjiv Khanna succeeds Justice D.Y. Chandrachud, who retired on Sunday (Nov. 10), and his term will last until May 13, 2025

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WHY IN NEWS?

Justice Sanjiv Khanna was sworn in as the 51st Chief Justice of India (CJI) on November 11, 2024, at Rashtrapati Bhavan, New Delhi. The oath was administered by President Droupadi Murmu in the presence of dignitaries like the Vice-President, Prime Minister, Union Ministers, former CJIs, and senior judges of the Supreme Court and High Courts.

Key Provisions and Processes Related to the Chief Justice of India	
<p>Appointment</p> <p>Selection Process:</p> <ul style="list-style-type: none"> A Supreme Court judge is appointed by the President of India under Article 124(2) of the Constitution. By convention, the senior-most judge (based on length of service) on the Supreme Court bench is designated as the CJI. 	<p>Removal Process</p> <ul style="list-style-type: none"> Mechanism: <ul style="list-style-type: none"> The removal of the CJI requires an address to the President by Parliament. This address must be supported by a special majority in both Houses: a majority of the total membership and at least two-thirds of those present and voting. No Specific Grounds Required: The Constitution does not specify any particular grounds for removal.
<p>Qualifications</p> <ul style="list-style-type: none"> Citizenship: Must be an Indian citizen. Professional Experience (one of the following is required): <ul style="list-style-type: none"> At least five years as a judge in any High Court (or in successive High Courts). Alternatively, at least ten years as an advocate in any High Court (or in successive High Courts). Or, recognized as a distinguished jurist by the President. 	<p>Removal Process</p> <ul style="list-style-type: none"> Case Management: Acts as the Master of the Roster, assigning cases and scheduling hearings. Judicial Appointments: Advises the President on SC and HC appointments in consultation with the collegium. Ad-hoc Judges: Can appoint ad-hoc SC judges under Article 127. Institutional Role: Can recommend changing the SC seat from Delhi with Presidential approval.

Convention Followed

- Traditionally, the senior-most judge of the Supreme Court (by years of service) is appointed as the next CJI.
- The outgoing CJI recommends the name to the Union Minister of Law, Justice and Company Affairs.
- The recommendation is forwarded to the Prime Minister, who advises the President for final appointment.
- This seniority norm has been breached three times:** In 1964, 1973, and 1977, when relatively junior judges were appointed, leading to institutional tensions.
- As per State of Rajasthan v. Prakash Chand (1997):** The CJI is the head of the Indian judiciary, but is considered equal in judicial power to other SC judges.

JUDICIAL ACCOUNTABILITY AND IMPEACHMENT OF JUDGES

The challenge of holding judges accountable

The review mechanism for judges in India requires 'proved misbehaviour or incapacity' to be decided by a committee set up under the Judges (Inquiry) Act, 1968. This committee functions like a trial court, but is set in motion only after a successful attempt to impeach the judge is moved either in the Lok Sabha or the Rajya Sabha

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WHY IN NEWS?

A controversial speech by Justice Shekhar Kumar Yadav of the Allahabad High Court at an event organised by the Vishwa Hindu Parishad's legal cell has reignited debate on the lack of effective mechanisms to ensure judicial accountability in India's higher judiciary.

Impeachment

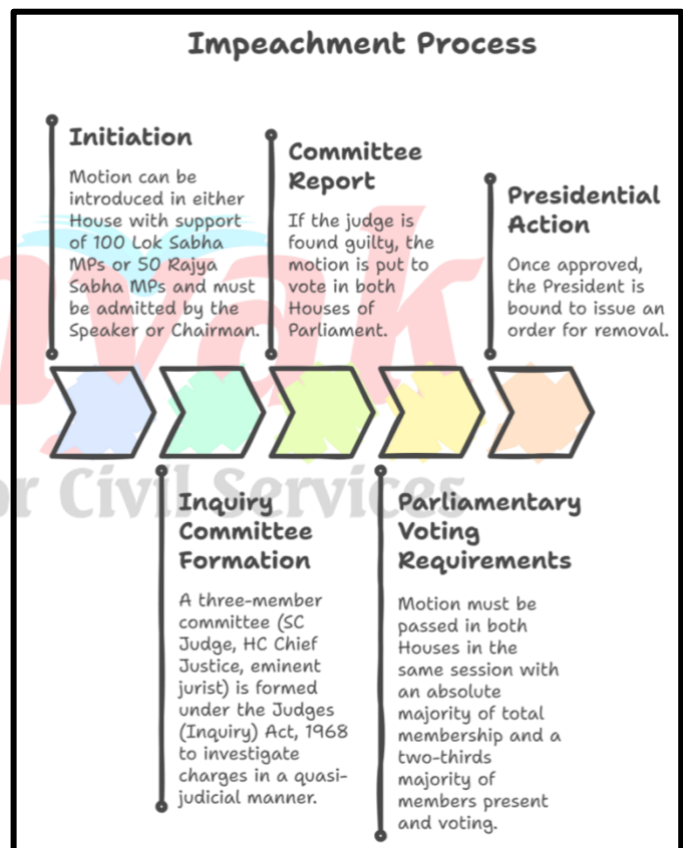
- Impeachment is a constitutional process for the removal of judges of the Supreme Court and High Courts for proved misbehavior or incapacity. It combines parliamentary oversight with judicial inquiry, ensuring accountability while safeguarding judicial independence.
- **None** of the six impeachment attempts against judges since Independence have succeeded.

Constitutional Provisions and Legal Framework

- Governed under Articles 124(4) & 124(5) (Supreme Court) and Articles 217 & 218 (High Courts) of the Constitution.
- **The Judges (Inquiry) Act, 1968** provides the procedural framework for investigation and inquiry.
- **The Constitution permits removal only on two grounds:** Proved misbehavior and Incapacity
- The Constitution does not explicitly use the term "impeachment" for judges, but the term is colloquially used for their removal process.

Limitations and Loopholes in Current Framework

- If a judge resigns during the proceedings, the process typically stops.
- The judge retains retirement benefits, escaping full accountability.
- This loophole has been exploited multiple times, undermining the process.



AD HOC JUDGE APPOINTMENT

Why Supreme Court suggested appointing retired High Court judges on 'ad hoc' basis

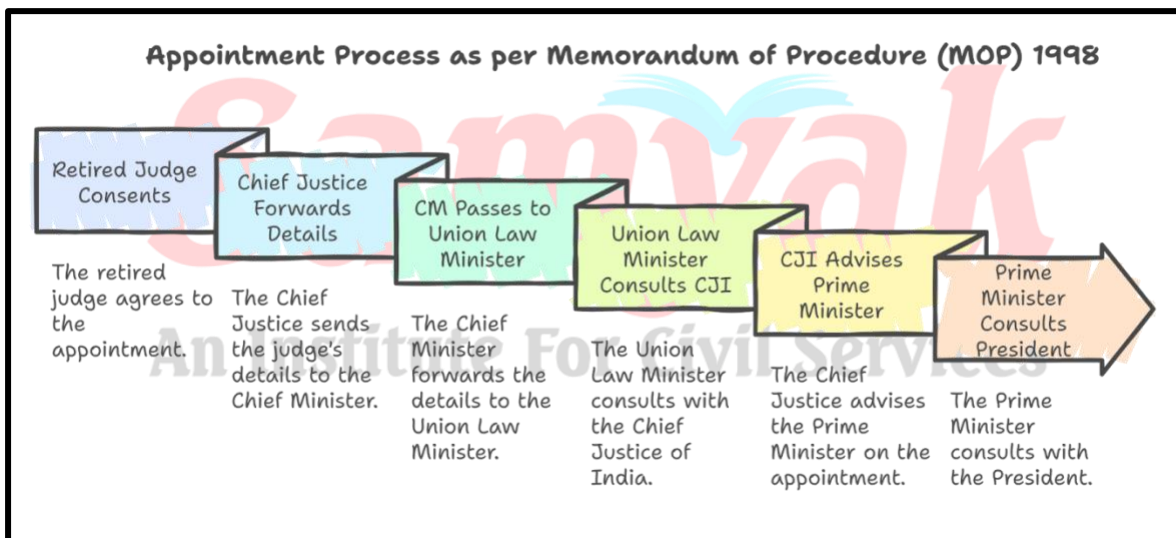
The Supreme Court, as well as some earlier Law Commissions, have previously batted for such appointments and laid down detailed guidelines for it.

WHY IN NEWS?

The Supreme Court in January 2025 suggested appointing retired judges as ad hoc judges under Article 224A to address the increasing backlog of criminal cases in High Courts. **Article 224A** of the Constitution allows High Court Chief Justices to appoint retired judges with the President's consent. Despite being a constitutional provision, it has rarely been used (only 3 instances).

Constitutional Basis: Article 224A

- Article 224A of the Indian Constitution permits the appointment of retired judges to temporarily serve in High Courts.
- President's Approval and Retired Judge's Consent are required for such appointments.



- As per **Lok Prahari v. Union of India (2021)**, recommendations must go through the Supreme Court Collegium (CJI + 2 senior-most judges).

Initiation of Process

- The process for appointing ad hoc judges can only be initiated under specific conditions:
 - **Vacancy Threshold:** More than 20% vacancies in the High Court.
 - **Pending Cases:** More than 10% of the backlog is over 5 years old.
 - **Regular Appointments First:** Ad hoc appointments can only happen after the process for regular judicial appointments is initiated.

Process for Selection

- **Panel of Judges:** Each Chief Justice of a High Court must create a panel of retired judges for possible ad hoc appointments.
- **Bypass Intelligence Bureau Check:** Since nominees are former judges, the Intelligence Bureau check is bypassed, speeding up the process.

Tenure, Role and Emoluments

- **Tenure:** Ad-hoc judges serve for 2 to 3 years.
- **Number of Judges:** Typically, 2 to 5 ad hoc judges are appointed, based on the backlog and vacancies.
- **Duties:** Ad-hoc judges may only hear cases over 5 years old and are prohibited from other legal work (e.g., advisory, arbitration, client representation).
- Ad-hoc judges receive the same emoluments and allowances as permanent judges of the High Court, excluding their pension.

Only three instances of ad hoc judges being appointed under Article 224A:

- **Justice Suraj Bhan:** Madhya Pradesh HC (1972), for one year to hear election petitions.
- **Justice P. Venugopal:** Madras HC (1982), with one-year renewal in 1983.
- **Justice O.P. Srivastava:** Allahabad HC (2007), for hearing the Ayodhya title suit.

Deregulation commission

Govt to set up deregulation commission to further reduce State's role in governance: PM Modi

The NDA government through its policies have been able to replace 'Fear of Business' with 'Ease of Doing Business', says Prime Minister Narendra Modi

Updated - February 16, 2025 11:46 am IST - New Delhi

WHY IN NEWS?

- Prime Minister Narendra Modi announced the formation of a Deregulation Commission aimed at reducing government interference across governance sectors, while highlighting the government’s reform measures to promote Ease of Doing Business, financial inclusion, and economic development.
- This initiative aligns with the broader vision of "Minimum Government, Maximum Governance"
- It marks a continuation of the Jan Vishwas reforms, with the second phase (Jan Vishwas 2.0) targeting further reduction in outdated regulations.

Jan Vishwas Bill 2.0	Deregulation
<ul style="list-style-type: none"> ● It was introduced in the Union Budget 2025-26. ● It builds upon the earlier reforms by seeking to decriminalize over 100 archaic legal provisions that act as bottlenecks to ease of doing business. ● Purpose and Scope <ul style="list-style-type: none"> ○ Targets regulatory simplification by removing criminal penalties for minor offences. ○ Encourages entrepreneurship by reducing the fear of legal harassment. ○ Aims to modernize business laws, making them compatible with today's economic realities. 	<ul style="list-style-type: none"> ● Deregulation refers to the removal or reduction of government controls in industries to encourage efficiency and competition. ● Global parallels: <ul style="list-style-type: none"> ○ United States: Department of Government Efficiency (DoGE). ○ United Kingdom: Better Regulation Framework. ○ New Zealand: Ministry of Regulation. ● These bodies serve as regulatory watchdogs that prevent overregulation and support free-market principles.

WAQF (AMENDMENT) ACT, 2025

WHY IN NEWS?

- The Waqf (Amendment) Act, 2025 has been passed by the Indian Parliament and has received Presidential assent. The Act **amends the Waqf Act, 1995** to reform waqf property governance, dispute resolution, and board functioning using legal, administrative, and technological tools.

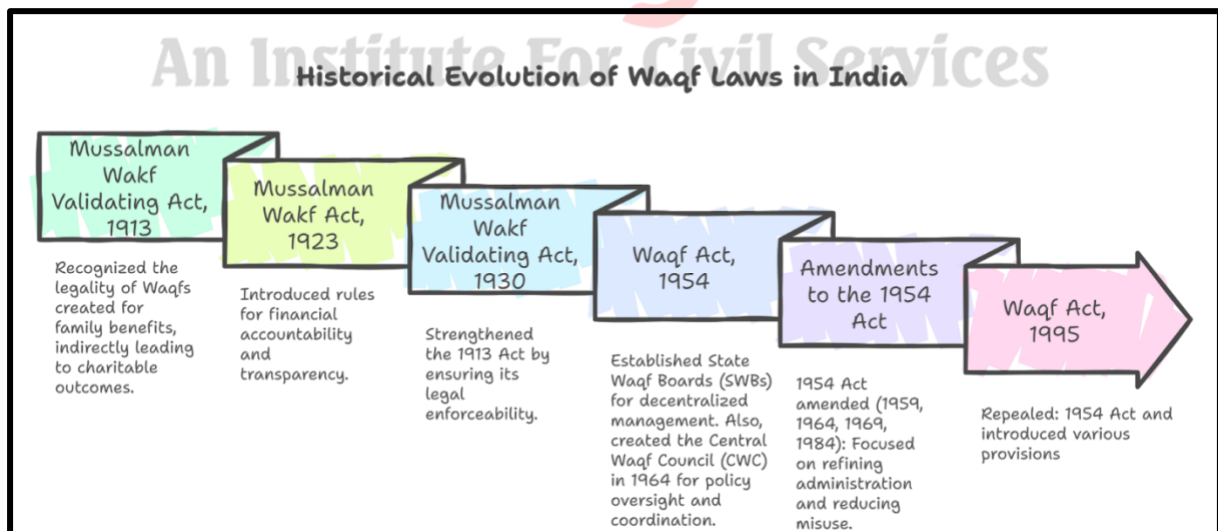
What is Waqf?

- A Waqf is a permanent charitable endowment made by a Muslim for religious, pious, or philanthropic purposes.
- The key aspect of a Waqf is that ownership is considered to belong to God, while its benefits are directed toward the specified purposes such as religious or charitable activities.

- Waqf property is inalienable — it cannot be sold, inherited, gifted, or encumbered once dedicated.

- Modes of Establishment: A Waqf can be established through:
 - Written Deed: A formal legal document declaring the property as Waqf.
 - Legal Instrument: A legal mechanism used to formalize the donation of property.
 - Oral Declaration: In some cases, an oral declaration can also be used to establish a Waqf, provided there is evidence of its consistent use for religious or charitable purposes.

- Not all Islamic countries practice or have Waqf properties. Countries such as Turkey, Libya, Egypt, Sudan, Lebanon, Syria, Jordan, Tunisia, and Iraq do not have Waqfs or a formal Waqf system



Waqf Act, 1995

- Repealed the earlier 1954 Act and brought comprehensive reforms.
- Clearly defined the roles and responsibilities of:
 - **Central Waqf Council (CWC)** □ Policy advisory body to the Government and SWBs.
 - State Waqf Boards (SWBs) □ Ground-level custodians of Waqf properties.
 - Chief Executive Officers (CEOs)

- Mutawallis (managers of individual Waqfs)
- **Waqf Tribunals were introduced:** (Specialized forums for Waqf-related litigations, ensuring quicker resolution and reduced burden on civil courts.)
 - Empowered with civil court authority for quick resolution of disputes.
 - Excluded civil courts from Waqf-related matters to ensure speedy justice.
 - Strengthened checks and balances for transparency in Waqf administration.

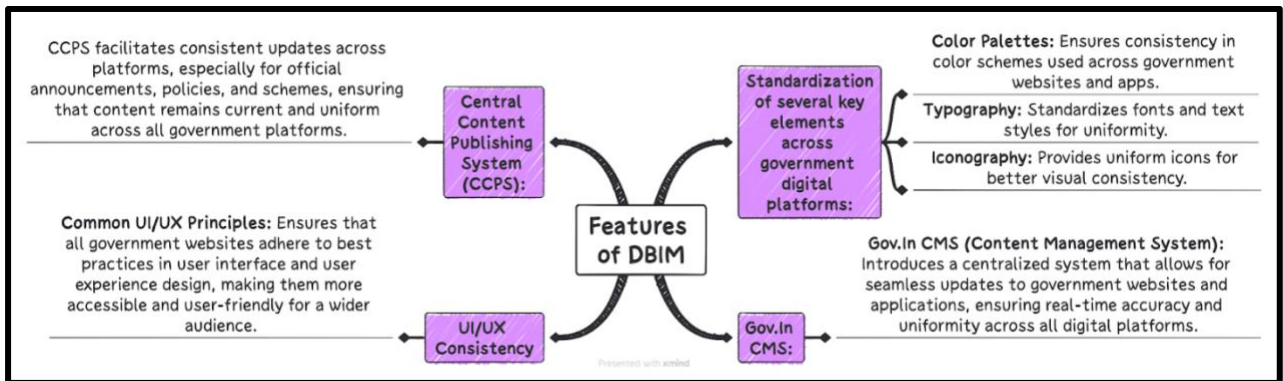
Key Provisions of the Waqf (Amendment) Act, 2025

<p style="text-align: center;">Clarifying Legal Definitions and Eligibility</p> <ul style="list-style-type: none"> ● Trusts vs. Waqf: Muslim-created trusts under other laws will not be treated as waqf, preserving donor control. ● Only practicing Muslims (for at least 5 years) can dedicate property to Waqf. 	<p style="text-align: center;">Reforms to Property Registration & Disputes</p> <ul style="list-style-type: none"> ● Existing registered properties remain as Waqf unless challenged or identified as government land. ● Section 40 (1995 Act), which allowed unilateral declaration of waqf property by the Board, has been repealed. ● Disputes involving government lands will now be investigated by an officer above Collector rank. 	<p style="text-align: center;">Strengthening Judicial Oversight</p> <ul style="list-style-type: none"> ● Aggrieved parties can now appeal directly to High Courts within 90 days of Waqf Tribunal orders. ● Tribunals will comprise a district judge, a senior state official, and an expert in Muslim law. 	<p style="text-align: center;">Safeguarding Women's Rights</p> <ul style="list-style-type: none"> ● In family waqf dedications, women must first receive their rightful inheritance. ● Special protections introduced for widows, divorced women, and orphans.
<p style="text-align: center;">Improving Financial Transparency</p> <ul style="list-style-type: none"> ● Annual contributions to Waqf Boards reduced from 7% to 5%, enhancing fund availability for charitable work. ● Institutions with income above ₹1 lakh will undergo mandatory audits by state-appointed auditors. 	<p style="text-align: center;">Modernization and Digitization</p> <ul style="list-style-type: none"> ● A centralized digital portal will manage waqf properties for transparency and data integration. ● Mutawallis (caretakers) must register all property details on this portal. 	<p style="text-align: center;">Inclusive Board Representation</p> <ul style="list-style-type: none"> ● Boards to include two non-Muslim members, and at least two Muslim women. ● Representation ensured for Shia, Sunni, Bohra, Aghakhani, and OBC Muslim communities. 	<p style="text-align: center;">Application of Limitation Act</p> <p>Limitation Act, 1963 will now apply to waqf disputes to ensure timely resolution and prevent indefinite litigation.</p>

DIGITAL BRAND IDENTITY MANUAL (DBIM)

WHY IN NEWS?

- The Ministry of Electronics and Information Technology (MeitY) has launched the Digital Brand Identity Manual (DBIM) to establish a standardized and seamless digital presence across all government platforms in India.



EPIDEMIC DISEASES ACT (EDA), 1897

Law Commission Report suggests creation of Epidemic Plan and Standard Operation Procedure to deal with future epidemics

Highlighting the limitations of the Epidemic Diseases Act, 1897 (EDA), the 286th Law Commission Report states “the management, control and prevention of epidemic diseases cannot be restricted to a century-old law.”

WHY IN NEWS?

- The 286th Report of the Law Commission of India has recommended a comprehensive legal framework to manage future epidemics in India. It highlights the inadequacy of the colonial-era Epidemic Diseases Act, 1897, especially in the wake of COVID-19, and proposes the creation of a new Epidemic Plan and Standard Operating Procedure (SOP).

Context and Background

- The Law Commission suo moto took up a review of the EDA after the COVID-19 pandemic exposed major legal and administrative gaps.
- It observed a lack of coordination between Centre, State, and local authorities due to undefined roles and overlapping powers during a health crisis.

Key Recommendations

- **New Legislation or Amendment of EDA:** Urges a new legal framework or comprehensive overhaul of the EDA to match current public health realities.
- **Creation of an Epidemic Plan:** A national-level Epidemic Plan to be drafted by the Central Government in consultation with states, private institutions, and expert bodies
- The plan should ensure Provisions for quarantine, lockdowns, isolation; Protection of fundamental rights and Periodic review and updates
- **Inclusion of Modern Provisions:**
 - Privacy-protecting disease surveillance
 - Regulation of medical supply chains
 - Information dissemination, waste disposal, vaccine research, etc.