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Institute Of Civil Services

# THE HINDU



BY

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- Important News Discussion
- Editorial Analysis
- Previous year Question Discussion
- Practice Questions at the end of the session
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# News Covered-

- 1.Divorced woman entitled to secular remedy ;SC
- 2.world population day-India's demographic journey of hits and misses
3. Even the odd jobs-Gig workers



# Divorced Muslim women entitled to secular remedy: SC

**Krishnadas Rajagopal**

NEW DELHI

The Supreme Court on Wednesday held that divorced Muslim women are entitled to maintenance under the “secular” Section 125 of the Code of Criminal Procedure.

The court agreed with *amicus curiae*, senior advocate Gaurav Agrawal, that a remedy under the secular statutory provision of Section 125 of the Cr.PC cannot be foreclosed for divorced Muslim women by virtue of enactment of a personal law remedy under the Muslim Women (Protection of Rights on Divorce) Act, 1986. A divorced Muslim woman is entitled to all rights of maintenance available to other equally situated women in the country.

A separate but concurring judgment by a two-judge Bench of Justices B.V.



The top court was hearing an appeal against a Telangana High Court order in the matter.

Nagarathna and Augustine Goerge Masih came on an appeal filed by a Muslim man challenging a Telangana High Court decision upholding though modifying a Family Court order allowing his wife, whom he had divorced via *triple talaq*, interim maintenance under Section 125 of CrPC.

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## What is the Muslim Women (Protection of Rights on Divorce) Act, 1986?

■ **Purpose:** The Act was enacted to protect the rights of Muslim women who have been divorced by, or have obtained divorce from, their husbands. It provides for matters connected with or incidental to the protection of these rights.

○ This Act was a response to the Mohd. Ahmad Khan vs. **Shah Bano Begum, 1985.** In which the SC delivered held that section 125 of the CrPC is a secular provision applicable to all, irrespective of religion.

○ The right to maintenance under CrPC is not negated by provisions of personal law.

■ **Provisions:**

○ A divorced Muslim woman is entitled to a reasonable and fair provision and maintenance from her former husband, to be paid within the iddat period.

• Iddat is a period, usually of three months, which a woman must observe after the death of her husband or a divorce before she can remarry.

○ The Act also covers the payment of mahr (dower) and the return of properties given to the woman at the time of marriage.

■ It allows a divorced woman and her former husband to choose to be governed by the provisions of sections 125 to 128 of the CrPC, 1973. If they make a joint or separate declaration to this effect at the first hearing of the application.



## What are the Supreme Court Observations?

- SC held that Section 125 CrPC applies to all women, not just married women. It emphasised that the provision would apply universally.

- The SC's judgement reaffirms the rights of divorced Muslim women to claim maintenance under Section 125 CrPC, ensuring legal parity and safeguarding constitutional guarantees of equality and non-discrimination.

- The Supreme Court dismissed the appeal, reaffirming that Muslim women can seek maintenance under Section 125 CrPC despite the existence of the 1986 Act.

- The Court noted that Section 3 of the 1986 Act, starting with a non-obstante clause, does not restrict the application of Section 125 CrPC, but rather provides an additional remedy.

- The Court affirmed that divorced Muslim women, including those divorced through triple talaq (now deemed illegal), can claim maintenance under Section 125 CrPC irrespective of personal laws.

- Triple talaq has been declared as void by the SC and criminalised by the Muslim Women (Protection of Rights on Marriage) Act 2019.

## Note

Instant triple talaq, or talaq-e-bidat, is a practice within the Muslim community where a man can instantly divorce his wife by pronouncing "talaq" three times in one sitting, through phone, or even via text message. The divorce is immediate and irrevocable, regardless of the husband's later desire to reconcile.

## Question-

Examine the interplay between Muslim Women (Protection of Rights on Divorce) Act, 1986, and Section 125 of the Criminal Procedure Code. Analyse the Supreme Court's approach in resolving conflicts.

# India's demographic journey of hits and misses

As we observe World Population Day on July 11, there is much to look at in India's demographic journey over the decades. It was in 1989 that the United Nations established the day after Dr. K.C. Zachariah, a renowned demographer, had proposed the concept of a 'World Population Day'. The world population had touched five billion in 1987 and challenges such as poverty, health and gender inequality were plaguing the world, developing countries in particular.

The decades of the 1960s and 1970s were scary as the global population was growing at a yearly rate of 2%. For India, there was a prediction of doom. This meant that widespread poverty, hunger and deaths were soon to follow in the next decades. However, despite the predictions, the next decades told a different story altogether. Global fertility rates declined rapidly. Due to improvements in living conditions and medical infrastructure, life expectancy increased. In India too, fertility rates began to fall since the 1970s and at present is below the replacement level. India's progress in many health parameters has been outstanding. There have been significant reductions in maternal and child mortality.

In 2015, the UN adopted the Sustainable Development Goals (SDGs) which were soon recognised as important metrics in assessing the progress of nations. With 2030, the target year, drawing closer, India's progress in the SDGs should be understood particularly in light of its population dynamics.

## India's population dynamics

Three components, namely fertility, mortality, and migration, play a pivotal role in shaping India's demographic landscape. India has made significant strides in reducing its fertility. According to the National Family Health Survey (NFHS)-5, India's total fertility rate (TFR) decreased from 3.4 to 2 between 1992 and 2021, dropping below the replacement level of 2.1. There has been a significant drop in the mortality rate as well. The average life expectancy of Indians has also increased over time. With this, India is experiencing a demographic shift, towards an ageing population. According to the 2011 Census, individuals aged 60 years and above constituted 8.6% of the total population. The figure is projected to rise up to 19.5% by 2050. But what really do these changing dynamics signify?

- 1) India's population dynamics is intertwined with its 'development' scenario. The reduction in fertility signifies a transition toward smaller family norms. This can reduce the proportion of the dependent population and result in a demographic dividend – a period where the working-age population is larger than the dependent population. India can harness the potential of its young workforce by creating employment. The decline in mortality and increase in life expectancy are reflections of a robust health-care system and increased living
- 2)
- 3)



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From pulling back from the brink of a demographic disaster to striving to reach the target year of 2030 for the Sustainable Development Goals, there is much to look at in the country

standards. The issue of population ageing, however, requires a long-term plan – focusing on geriatric care and providing social security benefits. Migration and urbanisation are also critical issues. Rapid rural to urban migration is posing a threat to the existing urban infrastructure. Among all these, gender equality also finds an important place. Women labour force participation, which is straggling, their notable absence from political representation and their unending plight within society are the silent issues which can sabotage India's path to 2030.

With six years in hand to meet the targets, India's road to 2030 crosses the path with its population dynamics. Population issues such as gender equality and socio-cultural divides cannot be ignored in the journey to achieve SDGs. It is only with a thorough understanding that India will be able to achieve a 'development' which is sustainable in its truest sense.

## The country's SDG journey

'Development' in the simplest way means ensuring the basic requirements of food, shelter and health for all. 'No Poverty, Zero Hunger and Good Health' are the three most important SDGs which form the core of 'development'. India's journey from the brink of a demographic disaster to striving towards the 2030 goal of 'leaving no one behind' has seen a couple of hits and misses.

- 1) India made great leaps towards the goal of eradicating poverty. The proportion of the population living below the poverty line reduced from 48% to 10% between 1990 and 2019. The Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) that came into effect in 2006 played a critical role in addressing rural poverty. The Janani Suraksha Yojana of 2005 – it provides cash benefits to pregnant women – not only accentuated institutional deliveries but also saved poor families from hefty health expenditures.
- 2)
- 3)

In his controversial book, *The Population Bomb* (1968), Paul R. Ehrlich raised serious questions about India's ability to feed its population in the years to come. With the Green Revolution, India became self-sufficient in crop production and averted a catastrophe. The proportion of the population suffering from hunger reduced from 18.3% in 2001 to 16.6% in 2021. However, India's nutrition picture is not completely rosy. India contributes a third of the global burden of malnutrition. Though the Indian government launched the Prime Minister's Overarching Scheme for Holistic Nourishment (POSHAN) Abhiyaan in 2018, it will still require a miracle to fulfil the target of 'Zero Hunger' by 2030.

- 1) Health is one sector in India where progress made has been remarkable. All the critical mortality indicators have seen steady declines. The Maternal Mortality Rate (MMR) decreased

from 384.4 in 2000 to 102.7 in 2020. The mortality rate for children under five reduced significantly post 2000s. The infant mortality rate also reduced from 66.7 deaths per 1,000 live births in 2000 to 25.5 deaths per 1,000 live births in 2021. Although India is still not near reaching the targets, it seems to be on the right track. These achievements show that there has been a significant improvement in the quality and coverage of health care. *Amelioration* Despite these achievements, India's road towards 2030 is not easy. According to Oxfam, the top 10% of India's population holds 77% of the national wealth. If the fruits of

development are not equitably distributed and if development does not percolate to the poorest of the poor and the wealth scenario remains so skewed as it is now, 'sustainable development' can never be achieved in its truest sense. Absolute growth in GDP numbers has limited importance for a country where the top 1% holds 40% of the total wealth. Hunger and nutrition is another sector in crisis. In the Global Hunger Index (2023), India's rank was 111 out of 125 countries. In terms of nutrition, stunting, wasting and underweight among children below five years and anaemia among women pose serious challenges. India's epidemiological trajectory shows that the country has a double burden of communicable and non-communicable diseases (NCD). This is a serious challenge for India which also combats the early onset of NCDs and the rising health needs of the elderly. *misses*

## What needs looking into

For India to achieve the SDGs, the changing population dynamics has to be acknowledged while forming policies. India needs to address income inequality, harness its demographic dividend by creating job opportunities for the youth of India and address changing health needs. NCDs, which incur high out-of-pocket expenditures, are catastrophic for some families. India needs a stronger safety net to save these families from slipping into utter poverty. The nutrition scenario should be set right by strengthening programmes. This will require an increase in budgetary allocation for the health and nutrition sectors. Another, but often missed, paradigm of this entire development discussion is gender equality. A gender equal approach and empowerment of vulnerable women can solve most issues and propel India's progress in the SDGs.

India still has a long journey to cover in order to meet all the targets of the SDGs. This will require multi-sectoral collaboration and political will. India's progress in SDGs is directly proportional to the well-being of its population and the route to progress lies in a better understanding of its population dynamics and addressing the issues. *way forward*



## Even the odd jobs

### Gig workers need a comprehensive national law on their employee status

**F**or India's gig workers, who are increasing in numbers but are perched precariously on the edge of the unregulated labour pool, the Karnataka Platform-based Gig Workers (Social Security and Welfare) Bill, 2024, offers a welcome reprieve, but still stops short of providing them with the security of being employees. When app-based gig work was introduced a decade ago, courtesy ride-sharing and food delivery apps, the absence of the word 'employee' was actually seen as a positive; it supposedly offered a chance for 'partners' to retain their autonomy and earn good money without being locked into a contract with rigid timings. That illusion soon dissolved as incomes crashed and working hours lengthened, and the lack of a formal 'employee' status left workers at the mercy of the aggregator and all-powerful algorithms, in the absence of safety nets or governmental regulation. Despite this, the gig economy is growing. According to a NITI Aayog report, India had 77 lakh gig workers at the beginning of the decade, and by 2029-30, they are projected to account for 4.1% of income, and 6.7% of the non-agricultural workforce.

A rights-based legislation, the draft Bill aims to prevent arbitrary dismissals, provide grievance redress mechanisms, and to bring more transparency into the opaque tangle of automated monitoring and algorithm-based payments. It is a step up from the Union government's Code on Social Security, 2020. Karnataka's law also offers social security through a welfare board and fund, with contributions from the government and the aggregator, either through a cut from every transaction on the app, or as a percentage of the platform's turnover in the State. Noting that many of the firms that own these platforms report minimal profits, workers' unions have rightly demanded that the welfare fee is charged as a cess on each transaction. Sceptics note the moribund nature of other unorganised sector welfare boards, but one advantage of mandatory registration with such a board is that it will make gig workers visible in the eyes of the law. Karnataka's Congress government aims to enact the Bill in the monsoon session of the Assembly, and it must quickly formulate rules and establish the welfare board to ensure that the law is in force before the end of the year. A similar legislation in Rajasthan, enacted by the predecessor Congress government, has been effectively put into cold storage by the BJP government. At the national level, comprehensive legislation is needed not just to set minimum wages, reasonable working hours and conditions and robust social security but also to provide gig workers with the coveted status of 'employees'.

## Who are Gig Workers?

### ■ Gig Workers:

- Gig workers are individuals who work on a temporary, flexible basis, often for multiple clients or companies, performing tasks or providing services.

- They are typically independent contractors rather than traditional employees, which means they have more control over when, where, and how they work.

### ■ Gig Economy:

- A free market system in which temporary positions are common and organisations contract with independent workers for short-term engagements.

## What can be done to Ensure Social Security of Gig Workers?

### ■ Implementing Code on Social Security, 2020:

- Although the Code on Social Security, 2020, contains provisions for gig workers, the rules are yet to be framed by the States and not much has moved in terms of instituting the Board. These should thus be taken up expeditiously by the government.

### ■ Adopt International Examples:

- The UK has instituted a model by categorising gig workers as “workers,” which is a category between employees and the self-employed.
  - This secures them a minimum wage, paid holidays, retirement benefit plans, and health insurance.

- Similarly, in Indonesia, they are entitled to accident, health, and death insurance.

### ■ Expanding Employer Responsibilities:

- Strong support for gig workers should come from the gig companies that themselves benefit from this agile and low-cost work arrangement.
  - The practice of classifying gig workers as self-employed or independent contractors needs to be eliminated.
  - Companies must be provided equal benefits as that of a regular employee.

### ■ Government Support:

- The government should invest in systematically increasing exports in high-skill gig work such as in the education, financial advisory, legal, medicine or customer management sectors; by making it easier for Indian gig workers to access global markets.

- Also, it would require collaboration between governments, gig platforms, and labour organisations to establish fair and transparent mechanisms for sharing the responsibility of providing social security benefits.



Examine the role of 'Gig Economy' in the process of empowerment of women in India. (2021)

