

CURRENT AFFAIRS SUPPLEMENT 9

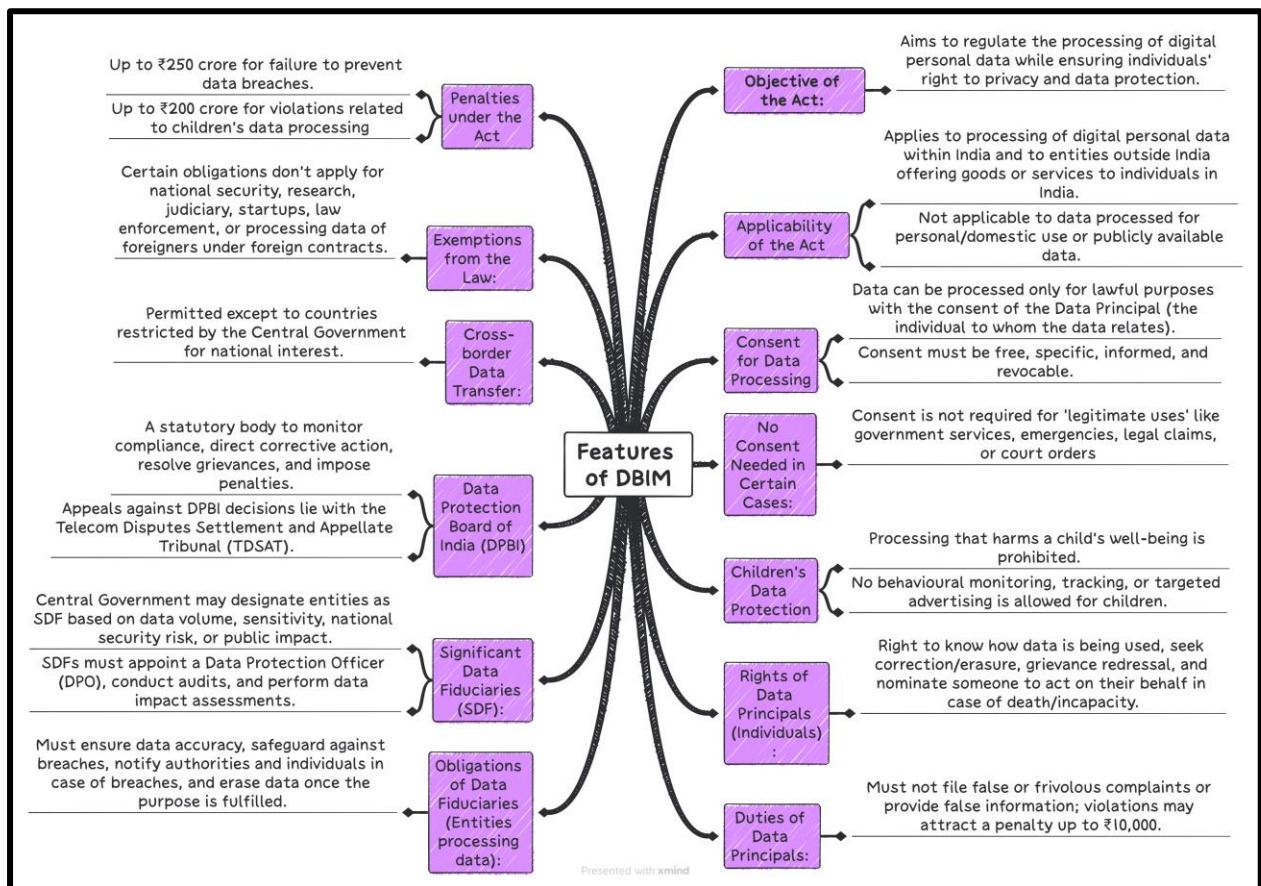
Digital Personal Data Protection Bill

India's Data Protection Law: Simple, consent-driven and business-friendly

WHY IN NEWS?

The Digital Personal Data Protection Act, 2023 came into force after receiving Presidential assent. It marks a historic step toward safeguarding digital privacy of Indian citizens in line with the Supreme Court's 2017 judgment declaring privacy as a fundamental right. It replaces the previous draft Personal Data Protection Bill (withdrawn in 2022) and incorporates features from global data protection models such as the EU's GDPR.

The Digital Personal Data Protection Act, 2023



Supreme Court staying Lokpal order on HC judge

Why Supreme Court stayed a Lokpal order on an HC judge over a corruption complaint

WHY IN NEWS?

The Supreme Court recently stayed a Lokpal order that took cognizance of a corruption complaint against an unnamed High Court judge. Earlier, the Lokpal bench held that it had the power to hear corruption complaints against former judges under the Lokpal and Lokayuktas Act, 2013 (Lokpal Act).

SC stays Lokpal order on HC judge, question of complaints procedure		
Complaint Against Judges	Legal Immunity: Section 77 of IPC (1860) & Section 15 of Bharatiya Nyaya Sanhita (2023) protect judges from prosecution for actions within official duties.	
	K Veeraswami Case (1991): Judges are public servants and can be investigated under the Prevention of Corruption Act but with safeguards.	
	Presidential Sanction: Any criminal case against a judge requires President's approval after consultation with the CJI.	
	Impeachment vs. Criminal Cases: Filing a case against a sitting judge follows a different process than impeachment, which requires Parliamentary approval.	
Case Before Lokpal	Lokpal's Jurisdiction:	Complaint: Allegations against an HC judge for influencing judicial proceedings in cases involving a former client.
		Lokayukta Act applies to public servants, but judges are not explicitly included.
		SC judges are excluded as SC is established under Article 124 of the Constitution.
		HC judges are considered under "Act of Parliament", as many HCs were formed under the High Courts Act, 1861, and Government of India Act, 1935.
		Final Decision: Lokpal, citing the K Veeraswami case, decided to refer the complaint to the CJI for guidance before proceeding.

Presented with a mind

Lokpal and Lokayuktas Act, 2013

- **Objective of the Act:** Enacted to create independent anti-corruption bodies at the Centre (Lokpal) and States (Lokayuktas) for investigating complaints against public functionaries.
- **Origin of the Concept:** Inspired by the Ombudsman model from Scandinavian countries, promoting institutional integrity and accountability.
- **Implementation Timeline:** Although passed in 2013, the Act came into effect from January 16, 2014.
- **Historical Background:** Maharashtra pioneered the Lokayukta institution in India in 1971, well before the central law was enacted.
- **Composition of Lokpal**
 - Lokpal comprises a Chairperson and a maximum of 8 members, with 50% being judicial members.
 - Non-judicial members must have at least 25 years of experience in fields like public administration, finance, law, or anti-corruption.
- **Chairperson Eligibility:** The Chairperson can be a former Chief Justice of India, a former Supreme Court Judge, or an eminent person with impeccable integrity.
- **Appointment Process:** Members are appointed by the President on recommendations of a Selection Committee including the PM, Speaker of Lok Sabha, Leader of Opposition, Chief Justice (or a nominee), and a jurist nominated by the President.

- **Removal of Members:** A Lokpal member can be removed by the President based on a Supreme Court inquiry, which can be triggered by a reference from the President, a citizen's complaint, or a petition signed by at least 100 MPs.
- **Jurisdiction of Lokpal:** Can investigate corruption complaints against the PM (with caveats), Union Ministers, MPs, Group A to D officials, and even private bodies involved in government-related corruption
 - **PM's Investigation Safeguards:** Complaints against the PM must be approved by two-thirds of the Lokpal members, held in-camera, and excluded from domains like national security, public order, atomic energy, and international relations.
- **Timeline for Action:** The inquiry must begin within 60 days, and investigation must ideally be concluded within 6 months, extendable for valid reasons.

Should a third language be compulsory?

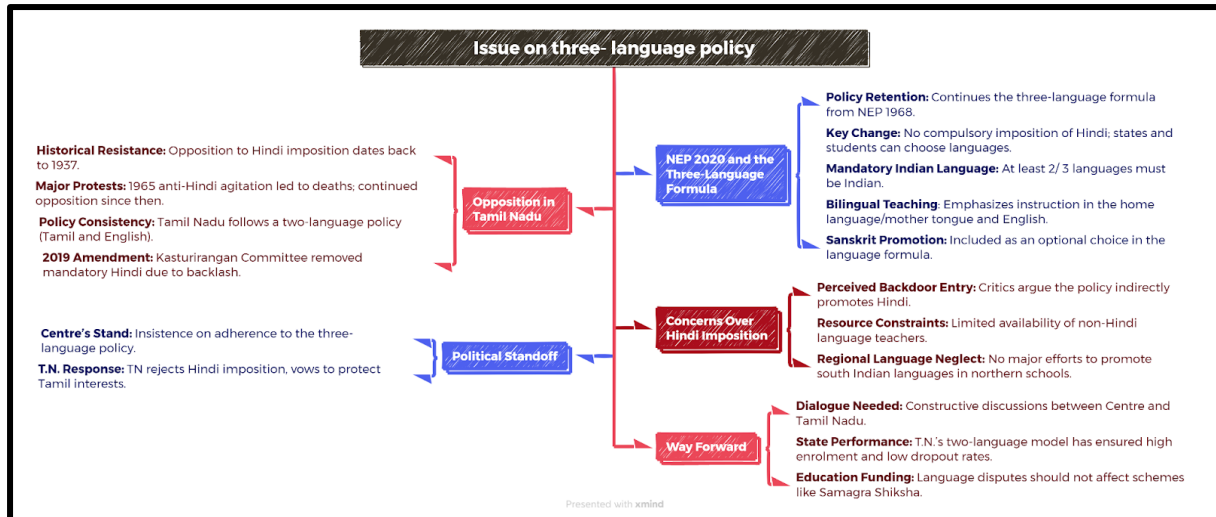
Should a third language be compulsory? | Explained

WHY IN NEWS?

There has been a tussle between the Centre and the Tamil Nadu government over the three-language formula in schools under the New Education Policy (NEP), 2020. The Union government has indicated that it needs to be complied with for release of funds tied to the Samagra Shiksha Abhiyan. However, the Tamil Nadu government views it as a 'smokescreen' for Hindi imposition and insists that it would continue with its two-language policy.

Three Language Formula

- **Origin:** Introduced in the National Education Policy (NEP) of 1968 to promote multilingualism and national unity.
- **Objective:** To encourage students to learn at least three languages, promoting cultural integration and wider communication.
- **Structure for Hindi-Speaking States:** Students to study Hindi, English, and a modern Indian language, preferably a South Indian language.
- **Structure for Non-Hindi-Speaking States:** Students to learn their regional language, Hindi, and English.
- **NEP 2020's Stance:** Retains the formula with added flexibility allowing choice based on state, region, and individual preference.
- **Language Selection Clause:** At least two of the three languages must be native Indian languages.
- **Mandatory Language Addition:** Students must learn one more Indian language besides the state language; Hindi is not mandatory.
- **Medium of Instruction Emphasis:** Promotes teaching in home language/mother tongue/local language, especially in primary education.
- **Bilingual Education Focus:** Encourages bilingual instruction using mother tongue and English for better learning outcomes.
- **Sanskrit Provision:** Sanskrit is offered as an optional subject under the formula and is given special importance.



Madras High Court rule about arresting women at night

What did the HC rule about arresting women at night? | Explained

Is the provision which restricts the arrest of women after sunset and before sunrise absolute? What did the 135th report of the Law Commission of India on Women in Custody recommend?

WHY IN NEWS?

The Madurai Bench of the Madras High Court in Deepa versus S. Vijayalakshmi and Others ruled that the legal provision in the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, which restricts the arrest of a woman after sunset and before sunrise, is directory and not mandatory.

Legal Provisions:

- **Section 43(5) of BNSS/Section 46(4) of CrPC:** Restricts arrest of women after sunset and before sunrise, except in exceptional circumstances.
- **Exception Clause:** If a woman must be arrested during these hours, prior permission of the jurisdictional magistrate must be obtained by a woman police officer with a written report.
- **Section 46(1) of CrPC:** Arresting officer should not touch a woman unless it is a woman officer or the circumstances necessitate it.

History of Section 46(4) CrPC:

- **Law Commission Reports:**
 - The 135th report (1989) recommended that women should not be arrested after sunset and before sunrise.
 - The 154th report (1996) made similar recommendations, leading to the insertion of Section 46(4) of CrPC in 2005.

Madurai High Court's Stance:

- The provision was declared **directory** (advisory) and not mandatory.
- Police can ignore the rule only with valid reasons and must explain why it was broken.

- The purpose remains to ensure women's safety during arrests, even though the rule is not absolute.
- Police must maintain a list of "special situations" where this rule can be overlooked, ensuring flexibility but not weakening the law's intent.

Other Judgments:

- **Nagpur Bench of Bombay High Court:** No female person should be detained without a lady constable, and not after sunset and before sunrise.
- **Supreme Court's Observation:** Strict adherence to the rule can cause practical difficulties for police operations.

Supreme Court on gag orders

WHY IN NEWS?

The Supreme Court recently granted interim protection from arrest to podcaster and influencer Ranveer Allahbadia in connection with the First Information Reports (FIRs) registered against him over remarks made on the YouTube show "India Got Latent".

SC's previous judgement on gag orders		
Allahbadia's Plea	Multiple FIRs: Filed in Maharashtra, Assam, and Rajasthan under BNS 2023, IT Act 2000, and Indecent Representation of Women (Prohibition) Act 1986 for alleged obscenity.	
	Supreme Court Petition: Sought consolidation of FIRs and interim protection from arrest under Article 32.	
Granting Interim Relief	Discretionary Power: No statutory conditions; judges impose conditions based on justice & investigation needs.	
	Key Considerations:	Flight Risk: Possibility of absconding.
		Witness Intimidation: Risk of threats.
		Evidence Tampering: Potential interference with the investigation.
	Bail Conditions:	Passport deposit, high bail bond, periodic police appearances.
		SC cautions against excessive restrictions like location tracking (Google Maps PIN).
	Judicial Precedents:	Satender Kumar Antil Case (2022): Conditions must be reasonable and feasible.
		Frank Vitus Case (2024): GPS tracking of accused violates Article 21 (Right to Privacy).
Unique Aspect of the Case	Gag Order: Allahbadia barred from airing content online till further orders.	
	Doctrine of Prior Restraint: Prevents speech before it occurs; courts deem it impermissible except in rare cases.	
	Relevant Cases:	Rehana Fathima Case (2021): SC stayed bail condition restricting social media activity.
		Mohammed Zubair Case (2021): SC rejected govt's request to ban tweets, citing the chilling effect on free speech and professional rights.

UGC-CARE list of journals discontinued

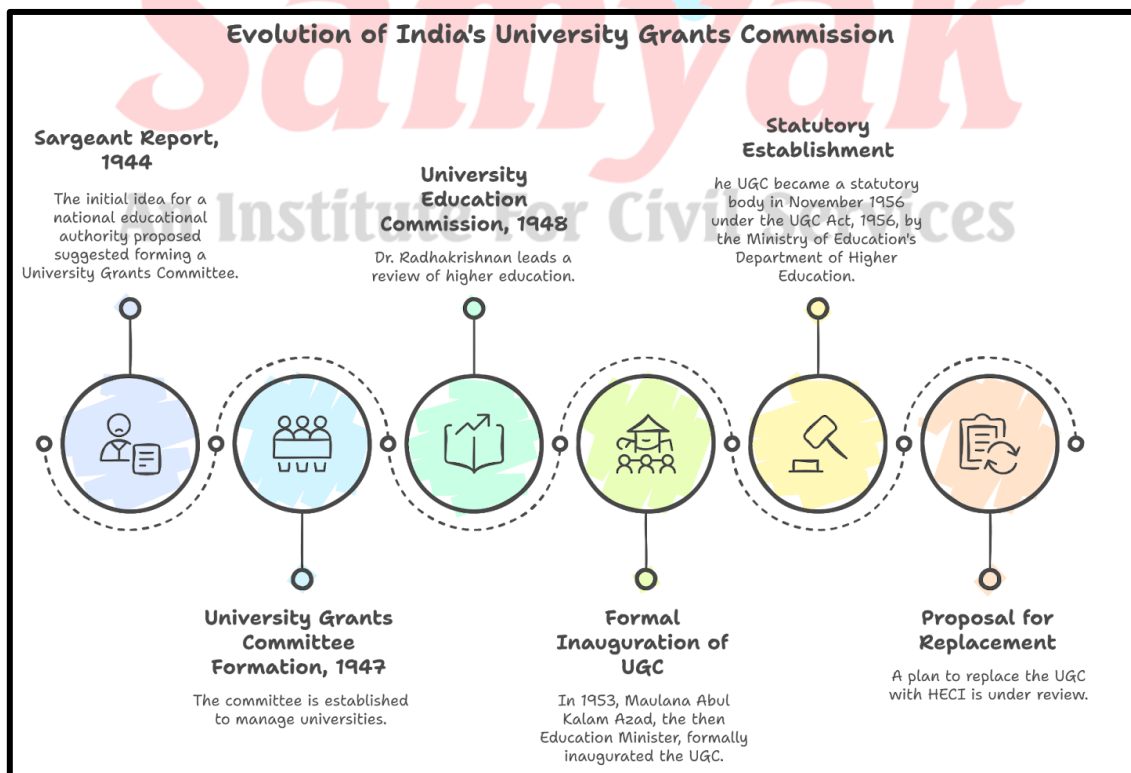
WHY IN NEWS?

The University Grants Commission (UGC) decided to discontinue the UGC Consortium for Academic and Research Ethics (UGC-CARE) list, which is a list of quality academic journals, first introduced in 2018.

What are Predatory Journals

These are journals that publish research for money without proper peer review or editorial scrutiny.

- **Need for UGC-CARE:** Due to pressure on faculty for publishing, many low-quality journals gained popularity, threatening academic credibility.
- **Role of Research Publications:** Academic journals influence university rankings, promotions, grants, and institutional reputation.
- **Media Exposé (2018):** An investigation revealed over 300 fake publishers charging \$30 to \$1800 for publications.
- **UGC's Response:** UGC criticized the rise in dubious publications and the academic harm it caused, leading to the formation of UGC-CARE.
- **Creation of UGC-CARE:** The initiative replaced the earlier university-based lists, ensuring a centralized quality check mechanism.
- **UGC-CARE Cell:** A dedicated unit was set up to evaluate journals on strict quality norms.



I&B Ministry plans new laws to regulate digital content

WHY IN NEWS?

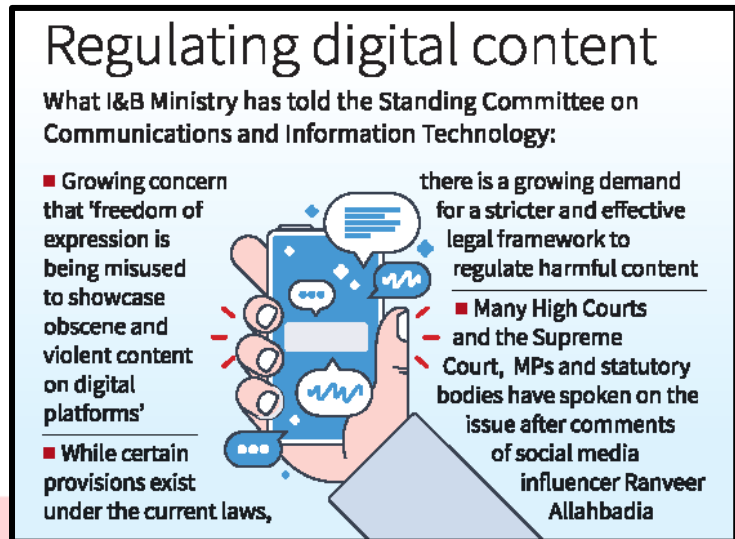
The Information and Broadcasting Ministry is examining the existing statutory provisions and the need for a new legal framework to regulate “harmful” content on digital platforms, indicating the government’s move to sharpen its vigilance over them following an outcry over Ranveer Allahbadia’s comments on a YouTube programme.

Concerns Over Digital Content Regulation

- **Misuse of Free Speech:** Concerns over obscenity and violence on digital platforms.
- **Need for Stricter Laws:** Existing laws insufficient; demand for a stronger legal framework.

Regulatory Gaps in Digital Media

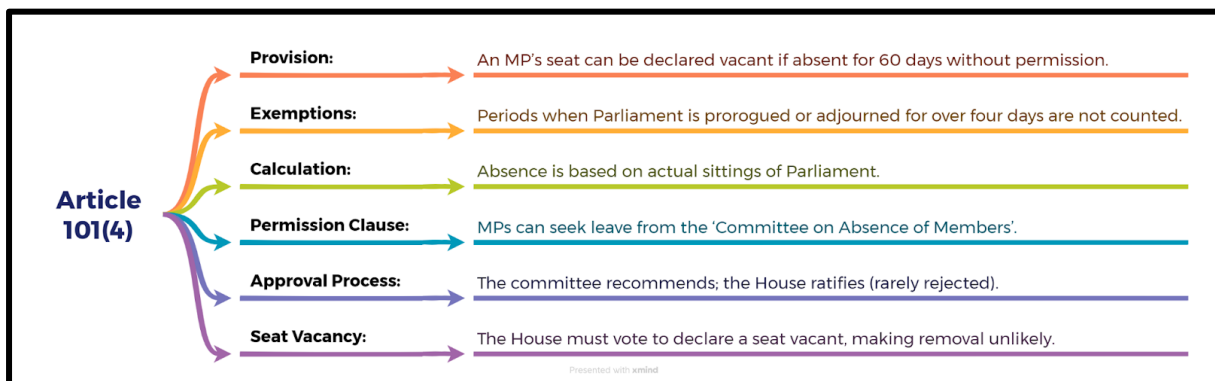
- **No Specific Legal Framework:** Unlike print and electronic media, OTT and YouTube lack clear regulations.
- **Censorship Concerns:** Debate over potential misuse of new provisions for content control.
- **Need for Legislative Action:** Calls for amending existing laws or enacting new ones.



Article 101(4) - Indian Express

WHY IN NEWS?

Incarcerated Khadoor Sahib MP Amritpal Singh recently moved the Punjab and Haryana High Court to attend the ongoing Parliament session, lest he lose his seat because of his prolonged absence from the House. Amritpal, who faces charges under the stringent National Security Act, has been detained in Dibrugarh since April 2023.



What is the 'rarest of rare' doctrine? - The Hindu

WHY IN NEWS?

Recently, two separate murder convictions resulted in sharply contrasting verdicts, highlighting how the Indian courts apply the death penalty. While one case led to capital punishment, the other saw the accused sentenced to life imprisonment, reigniting questions about the judiciary's approach to the 'rarest of rare' doctrine, which till now does not have a statutory definition.

'Rarest of Rare' Doctrine

- **Definition:** The doctrine guides the use of the death penalty in India, limiting it to only the most exceptional cases that shock society's conscience.
- **Purpose:** Ensures capital punishment remains an exception, preserving constitutional protections under Articles 14, 19, and 21.
- **Origin of the Doctrine**
 - **Jagmohan Singh vs. State of Uttar Pradesh (1972):** Supreme Court upheld the constitutionality of the death penalty but gave no criteria for its application.
 - **Bachan Singh vs. State of Punjab (1980):** Introduced the 'rarest of rare' doctrine, stating that the death penalty should be awarded only in exceptional cases, but did not define the term clearly.
- **Supreme Court's Framework on 'Rarest of Rare'**
 - **Machhi Singh vs. State of Punjab (1983):** Laid out five key factors for applying the death penalty:
 - **Manner of Crime:** Involves extreme brutality or heinous methods.
 - **Motive of Crime:** Shows deep moral depravity or cruelty.
 - **Impact on Society:** Causes public outrage or undermines social order.
 - **Magnitude of Crime:** Involves mass killings or multiple murders.
 - **Victim's Vulnerability:** Victim is a child, woman, elderly, or disabled.

Notable Cases

- **R.G. Kar Case (2024):** A female postgraduate trainee doctor was raped and murdered & the accused, Sanjay Roy, was sentenced to life imprisonment, as the court ruled it was not a "rarest of rare" case.
- **Sharon Raj Case (2022):** Sharon Raj was poisoned by his partner, Greeshma. The court awarded the death penalty, classifying it as "rarest of rare."
- **Mithu vs. State of Punjab (1983):** Invalidated Section 303 IPC that imposed a mandatory death penalty, affirming that capital punishment must be discretionary.

New CEC, under new law - Indian Express

WHY IN NEWS?

Recently, former IAS officer Gyanesh Kumar was appointed as the new Chief Election Commissioner of India. The appointment marked the first time a selection panel has been set up to appoint the head of the country's election watchdog.

Evolution of the Appointment Process of the CEC

Earlier System of Appointment

- **Structure of ECI:** The Election Commission of India (ECI) consists of a Chief Election Commissioner (CEC) and two Election Commissioners (ECs).
- **Method of Appointment:**
 - No specific legislation governed appointments.
 - The President appointed the CEC on the advice of the Prime Minister.
 - Conventionally, the senior-most EC was elevated to CEC.
- **Seniority Norm:** Determined by the order of the appointment notification, not necessarily by age or experience.

New Appointment Process (2023 Act)

- **Legislation:** The Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Service and Term of Office) Act, 2023 now governs appointments.
- **Two-Stage Process:**
 - **Search Committee:** Headed by the Law Minister, shortlists five candidates.
 - **Selection Committee:** Includes the Prime Minister, Leader of the Opposition (LoP) in the Lok Sabha, and a Union Cabinet Minister nominated by the PM.
 - Selects one name for recommendation.
- **Final Appointment:** Done by the President, based on the Selection Committee's recommendation.
- **Eligibility Criteria under the New Law**
 - Must have held the rank of Secretary to the Government of India.
 - Should possess proven integrity and experience in election management.
- **Term & Reappointment Rules**
 - **Tenure Limit:** Maximum six years (includes time served as both EC and CEC).
 - **No Reappointment:** Once served, cannot be reappointed to the post again.