



NEWS ANALYSIS

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Today's prelims practice Question

Q) Which of the following is the primary objective of monetary policy in India?

- a) Tackling stressed assets of banks
- b) Maintaining low levels of unemployment
- c) Appreciate the exchange value of rupee in the Forex markets
- d) Maintaining price stability

Explanation

- The main objectives of the Monetary Policy in India are to **maintain price stability**, control inflation, stimulate economic growth, and manage the exchange rate of the Indian Rupee.



Today's prelims practice Question

Right to Equality in the Indian constitution does not include this right?

- a) Prohibition on discrimination on ground of religion
- b) Rights of the accused and convicts
- c) Abolition of titles
- d) Equality of opportunity in employment

Verdict on the money bill that India awaits

A verdict on the Money Bill that India awaits

In the coming weeks, a seven-judge Bench of the Supreme Court of India is slated to hear arguments over critical questions governing the contours of a Money Bill. The Court's ultimate ruling will have ramifications on a slew of legislation that has been enacted in recent years without the Rajya Sabha's approval.

At stake too in the case are the future of India's federal architecture and the various delicate balances on which the Constitution's divisions of power rest.

The reference to the seven-judge Bench emanates out of a verdict rendered in November 2019, in *Rojer Mathew vs South Indian Bank Ltd.*, in which the Finance Act, 2017, was under challenge. The Act, which was passed after its certification as a Money Bill, radically altered the authority and jurisdiction of 26 different tribunals. It abolished some of these bodies, merged together others, prescribed qualifications for appointment of members, and imposed various other stipulations, including conditions of service.

Articles and definitions

In *Rojer Mathew*, the petitioners argued that these changes were far too extensive to meet the criteria required of a Money Bill. Under India's constitutional structure, for a Bill to turn into law, it must obtain the sanction of both Houses of Parliament. The only exception, which is contained in Article 109, allows Money Bills to be enacted as law with only the Lok Sabha's approval. The Rajya Sabha may make recommendations on the Bill, but any suggestions from it would not bind the Lok Sabha in any way.

Article 110(1), which defines a Money Bill, creates a deeming fiction. It details a list of subjects, including the imposition or abolition of a tax; the regulation of the borrowing of money; the appropriation of cash out of the Consolidated Fund of India; and any matter "incidental" to the specified subjects. So long as a draft law contains only provisions dealing with all or any of the matters enlisted in the clause it would be deemed a Money Bill. Article 110(3) further makes it clear that the Speaker of the Lok Sabha shall have the final say in determining whether a proposed legislation is a Money Bill or not.

On a simple reading of the definition, it ought to be obvious that the use of the word "only" means that a Bill that has subjects in it which are more than merely attendant to those delineated in Article 110(1) can never qualify as a Money Bill. Yet, this is precisely what the Finance Act, 2017, sought to do.



Subrith Parthasarathy

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The Supreme Court of India's ruling will have bearing on legislation enacted without the Rajya Sabha's approval and the state of India's federal architecture

Usually, a Finance Act is passed at the beginning of every year to outline the state's fiscal plans. But here, the law made sweeping changes to the functioning of tribunals, invading, in the process, principles essential to the maintenance of the judiciary's independence. The law, quite apart from rearranging panels and bodies, also granted to the Union Executive a *carte blanche* to make rules on how the subsisting tribunals were to be administered.

There is no doubt that the Finance Act had elements in it that touched on subjects contained in Article 110(1). For example, the law determined salaries payable to members of tribunals out of the Consolidated Fund of India. Those clauses could be attributable to items which would ordinarily be termed a Money Bill. But, for the most part, the legislation made amendments to substantive laws, and encroached into areas well beyond the subjects enlisted in Article 110(1).

A colourable exercise of power

In many ways, the Court's job in *Rojer Mathew* ought to have been simple enough. After all, under no circumstances could changes through a Money Bill to terms of office, or the conferral on the executive of unbridled power to regulate tribunals through delegated legislation, or the incorporation of provisions on qualifications for appointment through a Money Bill be seen as anything but an act of subterfuge. It was, therefore, plainly evident that the Finance Act, 2017, was a colourable exercise of power. The Constitution's plain language had been perverted with a view to defeating its basic thrust.

Still, the majority on the five-judge Bench saw itself constrained by prior precedent. It found that a coordinate Bench, in *K.S. Puttaswamy vs Union of India* (2018) (where the validity of the Aadhaar regime was challenged), had failed to provide sufficiently clear bright-line rules on the standards to be employed in reviewing a Speaker's decision to certify a draft law as a Money Bill. In particular, the effect of the word "only" in Article 110(1), the Bench said, had been overlooked in *K.S. Puttaswamy*.

Justice A.K. Sikri, who wrote the majority opinion there, concluded that because Section 7 of the Aadhaar Act concerned subsidies, benefits and services, for which expenditure was to be incurred from the Consolidated Fund of India, the law met the conditions of a Money Bill. What he failed to account for was the veritable welter contained in the other provisions of the statute. These ranged from enrolment to the scheme based on demographic and biometric information and the obtaining of consent from

individuals before information was collected, to the creation of offences and penalties and the establishment of a statutory authority to administer the process.

Properly construed, these matters could scarcely be seen as incidental to the subjects in Article 110(1). It now falls within the remit of the seven-judge Bench to consider the implications of the word "only". Any decision from it will have enormous consequences. This is because both before and since the reference in *Rojer Mathew*, there have been other instances where the Rajya Sabha has been bypassed.

Notably, the Finance Act, 2019, made far-reaching amendments to the Prevention of Money Laundering Act, 2002 (PMLA) through a Money Bill. The changes made included alterations to the definition of what constitutes "proceeds of crime" and a bestowal on the Enforcement Directorate of draconian powers of arrest, attachment, and search and seizure. The Supreme Court upheld many of these amendments, in *Vijay Madanlal Choudhary vs Union of India* (2022), but kept open the question of whether the amendments could have been validly made through a Money Bill.

The role of the Upper House

Any ruling from the seven-judge Bench is, therefore, likely to carry considerable purport. But beyond the laws on which it will have an impact, there is, as Justice D.Y. Chandrachud pointed out in his concurring opinion in *Rojer Mathew*, something far deeper at peril: the role of the Upper House in acting as a mirror to the pluralism that our nation represents.

"[The Rajya Sabha] is an indispensable constitutive unit of the federal backbone of the Constitution," Justice Chandrachud wrote. "Potential differences between the two houses of the Parliament cannot be resolved by simply ignoring the Rajya Sabha. In a federal polity such as ours, the efficacy of a constitutional body created to subservise the purpose of a deliberate dialogue, cannot be defeated by immunising from judicial review the decision of the Speaker to certify a Bill as a Money Bill."

Money Bills are a means of ensuring that the Rajya Sabha does not scuttle the efforts of the government of the day to access the treasury for basic administration. To use the measure as a tool to circumvent the Council's role in serving as a check on the state's legislative function amounts to playing a ruse on the Constitution. Should the Court allow this practice to go unchecked, it might well endanger the foundations on which our democracy stands.

CONTEXT

- In the coming weeks, a seven-judge Bench of the Supreme Court of India is slated to hear arguments over critical questions governing the contours of a Money Bill.

- The reference to the seven-judge Bench emanates out of a verdict rendered in November 2019, in **Rojer Mathew vs South Indian Bank Ltd.**, in which the Finance Act, 2017, was under challenge.
- The Act, which was passed after its certification as a Money Bill, radically altered the authority and jurisdiction of 26 different tribunals.

Articles and definitions

India's constitutional structure:

- For a Bill to turn into law, it must obtain the sanction of both Houses of Parliament. The only exception, which is contained in **Article 109**, allows Money Bills to be enacted as law with only the Lok Sabha's approval.



➤ According to Article 110 of the Constitution, a bill is deemed to be a money bill if it deals "only" with matters specified in Article 110 (1)(a) to (g)—taxation, borrowings by the government and appropriation of money from the Consolidated Fund of India, etc.

➤ Article 110(1)(g) adds that "any matter incidental to any of the matters specified in Articles 110(1)(a)-(f)" can also be classified as a money bill

➤ The government has cited this clause to introduce legislations such as the Aadhaar


Act, 2016, and the recent amendments to the Prevention of Money Laundering Act, 2002, as money bills

➤ Generally, for a bill to be enacted, the approval of both houses of Parliament is required. But a money bill can be introduced only in the Lok Sabha. The Rajya Sabha cannot amend or reject it, only suggest amendments, and it's up to the Lok Sabha to accept or reject these

➤ If a dispute arises over whether a bill is a money bill or not, the LS speaker's decision is final. However, the Supreme Court in 2018 stated that this decision is subject to judicial scrutiny

- **Article 110(1)**, defines a Money Bill, It details a list of subjects, including the imposition or abolition of a tax; the regulation of the borrowing of money; the appropriation of cash out of the Consolidated Fund of India; and any matter “incidental” to the specified subjects.
- **Article 110(3)** makes it clear that the Speaker of the Lok Sabha shall have the final say in determining whether a proposed legislation is a Money Bill or not.

CRITERIA FOR BEING A MONEY BILL

| Article 110 of the Constitution defines the Money Bill | | A Bill which has any provision other than money provision (as mentioned in sub-clauses) is not a Money Bill |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|
| Money Bills are those Bills which contain “only” provisions dealing with all or any of the matters specified in Article 110 sub-clauses : | | |
| <ul style="list-style-type: none"> ➤ Imposition, abolition, remission, alteration, regulation of any tax | <ul style="list-style-type: none"> ➤ Appropriation of moneys out of Consolidated Fund of India | Constitution gives power to the Lok Sabha Speaker to take a final call if any question arises whether a Bill is a Money Bill or not |
| <ul style="list-style-type: none"> ➤ Regulation of borrowing of money or the giving of any guarantee by govt | <ul style="list-style-type: none"> ➤ Declaring of any expense to be expenditure charged on the Consolidated Fund of India or the increasing of the amount of any such expenditure | |
| <ul style="list-style-type: none"> ➤ Custody of the Consolidated Fund or the Contingency Fund of India, the payment of moneys into or the withdrawal of moneys from any such fund | <ul style="list-style-type: none"> ➤ Receipt of money on account of Consolidated Fund of India or Public Account of India or the custody or issue of such money or the audit of the accounts of the Union or of a State | Speaker's decision is final and cannot be challenged in any court of law |
|  | | RS has limited powers with respect to Money Bills |
| | | Lok Sabha has supreme power in terms of Money Bills |

- **The Finance Act, 2019**, made far-reaching amendments to the **Prevention of Money Laundering Act, 2002 (PMLA)** through a **Money Bill**.
- The changes made included alterations to the definition of what constitutes **“proceeds of crime”** and a **bestowal on the Enforcement Directorate of draconian powers of arrest, attachment, and search and seizure**. The **Supreme Court upheld many of these amendments, in Vijay Madanlal Choudhary vs Union of India (2022)**.

KNOW THE BILL

What is a money bill?

The Constitution does not have a clear definition. Article 110 lays down a set of guidelines related to expenditure and taxation to judge if a bill can be deemed to be a money bill. But merely involving certain expenditure does not make it a money bill. In case of a dispute, the Lok Sabha Speaker is the final authority to decide.

What's the role of the Rajya Sabha in a money bill?

A money bill has to be introduced in the Lok Sabha. The Rajya Sabha has no voting power but can debate and recommend amendments, which will be taken to the Lok Sabha for scrutiny and passage. The Lok Sabha can choose to reject the amendments. The Rajya Sabha cannot retain the bill beyond 14 days. If it does, the bill will be deemed to have been passed by the Lok Sabha.

What is Financial Bill Category A?

A bill with provision for any expenditure from the Consolidated Fund of India can be considered a Financial Bill of Category A. Such a bill will be introduced only in the Lok Sabha with the President's consent. The Rajya Sabha has voting rights on such bills.

What are the issues pertaining to the misuse of the money bill?

- ❑ Provisions of a money bill should not be used to bypass the legislative process or to evade the scrutiny of the Rajya Sabha.
- ❑ During the passage of the Aadhaar Act 2016, Opposition has claimed that enabling a fair and equitable distribution of benefits and subsidies is not a money matter under Article 110. Hence, it has questioned the legality of the Aadhaar Bill as a money bill.
- ❑ There are allegations of partisan role by the speaker through the sole discretion given to the speaker for certifying the bill as a money bill.
- ❑ For instance, Finance Act 2017 was passed as a money bill. It amended various Acts to provide for new rules and appointments to various tribunals, such as National Green Tribunal.
- ❑ The **Supreme Court held** that a money bill should not contain provisions that are not directly related to the subjects listed in Article 110 of the Constitution of India (which defines the subjects that can be covered by a money bill).

SCs for quotas

States can sub-classify SCs for quotas: top court

Supreme Court holds that sub-categorisation within a class is a constitutional requirement to secure substantive equality, if the social position of the constituents is not comparable

Krishnadas Rajagopal
NEW DELHI

In a 6:1 majority judgment on Thursday, a seven-judge Constitution Bench of the Supreme Court, headed by Chief Justice of India D.Y. Chandrachud, held that the States have the right to sub-classify Scheduled Castes notified in the Presidential List to provide them more preferential treatment in public employment and education.

Referring to how a nine-judge Bench in the *Indra Sawhney* case had held it constitutional to classify the backward class into "backward" and the "more backward", Chief Justice Chandrachud said the same principle would apply to the SCs.

"The principle of sub-classification will be applicable to Scheduled Castes if the social position of the castes/groups is not comparable... Sub-categorisation within a class is a constitutional requirement to secure substantive equality," he said.

Why sub-classification?

Here are the salient points of the Supreme Court judgment:

- Scheduled Castes are not an 'indivisible monolith'
- They are composed of heterogeneous groups of castes, races or tribes with varying degrees of backwardness
- The States can further
- States have to produce data to support their claim that a sub-class required more beneficial treatment

He, however, remained silent on introducing the creamy layer principle to the SCs and STs.

'Creamy layer principle'

Four of the seven judges on the Bench separately said the government should extend the "creamy layer principle" to Scheduled Castes and Scheduled Tribes, as in the case of the Other Backward Classes (OBC) category. It was necessary to exclude affluent individuals or families from the benefits of reservation and make room for the underprivileged within these classes, they said.

"The State must evolve a policy for identifying the

creamy layer even from the Scheduled Castes and Scheduled Tribes so as to exclude them from the benefit of affirmative action. In my view, only this and this alone can achieve the real equality as enshrined under the Constitution... Can a child of IAS/IPS or civil service officers be equated with a child of a disadvantaged member belonging to Scheduled Castes, studying in a gram panchayat/zilla parishad school in a village," Justice B.R. Gavai asked.

The view was backed by Justices Vikram Nath, Pan-
kaj Mithal and Satish Chand-
dra Sharma.

Chief Justice Chandra-

chud's joint opinion with Justice Misra that it was constitutionally permissible for the States to sub-classify groups among Scheduled Castes was backed by four other judges. Justice Gavai opined that the unequals have to be treated unequally to bring "real equality".

"It is the duty of the State to give preferential treatment to the backward class of citizens who are not adequately represented," Justice Gavai said.

Justice Bela Trivedi remained the lone dissenter on the Bench, saying the States did not have the power to tinker with the Presidential List of Scheduled Castes.

The Constitution Bench judgment followed a reference made to the seven-judge Bench in 2020 to examine the constitutionality of the Tamil Nadu Arunthathiyars Reservation Act, 2009 and the Punjab Scheduled Castes and Backward Classes (Reservation in Services) Act, 2006.

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Context

- In a 6:1 majority judgment on Thursday, a seven-judge Constitution Bench of the Supreme Court, headed by Chief Justice of India D.Y. Chandrachud, held that the States have the right to sub-classify Scheduled Castes notified in the Presidential List to provide them more preferential treatment in public employment and education.

- **The Indra Sawhney case** had held it constitutional to classify the backward class into “backward” and the “more backward”.
- Same principle would apply to SCs.
- “The principle of subclassification will be applicable to Scheduled Castes if the social position of the constituents among the castes/groups is not comparable... Sub-categorisation within a class is a **constitutional requirement to secure substantive equality.**”

‘Creamy layer principle’

- The government should extend the **“creamy layer principle” to Scheduled Castes and Scheduled Tribes, as in the case of the Other Backward Classes (OBC) category.** It was necessary to exclude affluent individuals or families from the benefits of reservation and make room for the underprivileged within these classes.

‘Creamy Layer’ Must Be Excluded From Scheduled Castes/Scheduled Tribes For Reservations : Supreme Court



- **“The State must evolve a policy for identifying the creamy layer even from the Scheduled Castes and Scheduled Tribes so as to exclude them from the benefit of affirmative action.**
- **“It is the duty of the State to give preferential treatment to the backward class of citizens who are not adequately represented.”**

E. V. Chinnaiah v State of Andhra Pradesh (2004):

In this case, apex court held that once a community is included in the Presidential List for Scheduled Castes under **Article 341 of the Constitution, they become part of a single larger class of people, casting a wide net for the purposes of reservation.**

Case history

Salient points from the past verdicts which dealt with the application of creamy layer concept in reservation

- **Nine-judge Bench in 1992 Indra Sawhney case:** SCs/STs are the most backward among backward classes. Once part of the Presidential List under Articles 341 & 342, there is no question of showing their backwardness again

- **Five-judge Bench in 2006 M. Nagaraj case:** Quota benefits should go to the weakest of weak and not be snatched away by members of the class who are in the “top creamy layer”

- **Five-judge Bench in 2018 Jarnail Singh case:** Creamy layer ensures that only the deserving among the SCs/STs get the benefits of reservation



INDIA AND VIETNAM SIGN NINE AGREEMENTS TO DEEPEN STRATEGIC PARTNERSHIP & ENHANCE COOPERATION

'ALL PARTIES MUST SHOW RESTRAINT IN SOUTH CHINA SEA'

Vietnamese PM by his side, Modi takes dig at China: We don't support expansionism

SHUBHAJIT ROY
NEW DELHI, AUGUST 1

WITH AN eye on Chinese aggression in the South China Sea, Prime Minister Narendra Modi and visiting Vietnamese PM Pham Minh Chinh Thursday underlined the importance of "non-militarisation and self-restraint in the conduct of all activities" to avoid the escalation of disputes in the region.

With the Vietnamese PM by his side, Modi said India supports development and not expansionism — a thinly-disguised reference to Beijing's belligerence in the Indo-Pacific. More than 55 per cent of world trade crosses through the South China Sea and New Delhi is concerned about potential disruptions.

"In our Act East policy and our Indo-Pacific vision, Vietnam is our important partner... We support development, not expansionism (*Hum vistarbad nahi, vikasvad ka samarthan karte hain*)," Modi said in Hindi in his statement.

Modi said that they have adopted a new plan of action to strengthen the Comprehensive Strategic Partnership.

"New steps have been taken for cooperation in the field of Defence and Security... The agree-



PM Narendra Modi with Vietnamese PM Pham Minh Chinh in Rashtrapati Bhavan on Thursday. Anil Sharma

ment on a \$300-million credit line will strengthen Vietnam's maritime security. We have also decided to emphasise cooperation on the issues of terrorism and cyber security," Modi said.

The joint statement said that the leaders, underlining the link between prosperity and security, "reaffirmed the importance of maintaining peace, stability, security and freedom of navigation and overflight in the South China Sea, while pursuing the peaceful resolution of disputes in accordance with international law, particularly the 1982 United Nations Convention on the Law of the Sea (UNCLOS), without re-

sorting to threat or use of force."

"Both leaders underscored the importance of non-militarisation and self-restraint in the conduct of all activities by claimants and all other states, and avoidance of actions that could further complicate the situation or escalate disputes affecting peace and stability. Both leaders emphasised the legal framework set out by the UNCLOS within which all activities in the oceans and seas must be carried out, and that UNCLOS is the basis for determining maritime entitlements, sovereign rights, jurisdiction and legitimate interests over maritime zones," it said.



- ❑ Prime Minister Narendra Modi held talks with his Vietnamese counterpart Pham Minh Chinh in New Delhi.
- ❑ He said both the leaders agreed to further **deepen the India-Vietnam relationship by increasing economic, strategic, and cultural ties.**
- ❑ Vietnam is a rapidly growing economy, and **India-Vietnam** bilateral trade has reached 15 billion US dollars. He said both countries emphasised increasing bilateral trade.

- ❑ The two leaders also recognised convergence in their world view and expressed support for a greater voice and role for Global South in international affairs.

- ❑ Appreciated **multi-dimensional institutional** mechanisms between the two countries in the fields-

- ❑ **Foreign policy, security and maritime domain,** defence cooperation, parliamentary exchanges, trade and investment, agriculture, healthcare, civil aviation, information and communication technology, science and technology including space and nuclear technology, tourism and culture.

- ❑ They welcomed the signing of the Plan of Action for the implementation of the Comprehensive Strategic Partnership for the period of 2024-2028.



- ❑ India welcomed investment from Vietnam in agriculture, agro-processing, aquaculture, wood processing, urban development and infrastructure, production of bamboo and forestry products, hospitality and tourism, digital technology, e-vehicles, healthcare and services in India.
- ❑ They further agreed to further enhance defence cooperation based on mutual interest and priorities of the two countries which will also contribute to greater stability in the wider Indo-Pacific region.
- ❑ The two leaders also appreciated bilateral development cooperation under the framework of Mekong-Ganga Cooperation through quick impact projects, ITEC training and educational scholarships



- ❑ The leaders encouraged greater student, faculty and research exchanges between universities, think tanks and other institutions of the two countries in the context of **‘Viksit Bharat @ 2047’** and Viet Nam’s vision to become a high-income developed country by 2045.



- ❑ They supported further strengthening of the **ASEAN-India Comprehensive Strategic Partnership** which complements bilateral relations with respective Member States.
- ❑ The leaders appreciated the **ASEAN-India Joint Statement on Cooperation on the ASEAN Outlook on the Indo-Pacific (AOIP)** for Peace, Stability, and Prosperity in the Region which provides opportunities for further cooperation between the AOIP and Indo-Pacific Oceans Initiative.
- ❑ India appreciated Viet Nam’s consistent support for **India’s permanent membership in the reformed United Nations Security Council.**

Discuss the need for sub-categorization of Backward classes ? What are the challenges in sub-categorization. explain

Approach


1. Describe what is sub categorization in Introduction.
2. What is the need for sub-categorization of backward classes.
3. What are the challenges and limitations of such an exercise.
4. Conclude the answer by writing a way forward

1. Describe what is sub categorization in Introduction.

- OBCs are granted 27% reservation in jobs and education under the central government, this has been a legal debate for other reservation categories too
- In 2022, a Constitution Bench of the Supreme Court reopened the debate on sub-categorisation of Scheduled Castes and Scheduled Tribes for reservations.
- For OBCs, the debate arises out of the perception that only a few affluent communities among the over 2,600 included in the Central List of OBCs have secured a major part of the 27% reservation.
- The argument for creating sub-categories within OBCs is that it would ensure “equitable distribution” of representation among all OBC communities.

2. What is the need for sub-categorization of backward classes.

- ❑ Reservation in jobs and education did address socio-economic disparities in India to some degree, but, the benefits of reservation have not been distributed equitably
- ❑ Large segments of the weaker sections and backward classes continue to have no access to quality education or meaningful employment.

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- ❑ The relatively rich and dominant sections among the backward castes have tended to take up a disproportionately larger share of the reservation pie.
 - ❑ Failure in effectively preventing large sections of the creamy layer from taking advantage of the quota system to the detriment of the poorer sections among their own caste groups.
 - ❑ To ensure a more equitable distribution of reservation benefits by further differentiating caste groups coming under backward classes on the basis of their levels of social and economic backwardness.

3. What are the challenges and limitations of such an exercise.

- ❖ Government lacks information for data enumeration of OBC
- ❖ Data from 2011 Socio-Economic Caste Census were never made public.
- ❖ Enumeration of OBC data is administratively complex and the information lacks completeness and accuracy since the State and Central list of OBCs are distinct.



Thank you

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