



INDORE INSTITUTE OF LAW
(Affiliated to DAVV & Bar Council of India, New Delhi)



National Sports Fest

Chapter-IV

VIBRANT-2K22

31st March & 1st, 2nd April, 2022

Inaugural Ceremony



Mr. Shahrukh Qureshi (Chairman, Women's Football Committee, Barwani), Chief guest of Vibrant with the Management of IIL

A sound mind resides in a sound body. Sports and games help in physical fitness from inculcating sportsmanship to developing leadership skills, unity, competitive spirit among the students.

On this thought Indore Institute of Law has built a legacy of organizing National Sports Fest "Vibrant- 2022 – Chapter IV" from 31st March 2022, Thursday to 2nd April 2022, Saturday with enormous participation of more than 300 participants from renowned schools and colleges from all across the nation.

Valedictory Ceremony



Chief Guest Mr. Jayesh Acharya General Secretary, MP Table Tennis Association @ Valedictory Ceremony



Dr. Akshay Kanti Bam, Chairman, IIL with the chief Guest @ Valedictory Ceremony

International Women's Day

National Symposium on

"Women Rights: Human Rights 2022"

8th March, 2022

One day symposium was organized by Indore Institute of Law on 8th March, 2022 to commemorate International Women's Day. The theme of the symposium was Women Right Human Right. Justice Kalpesh Satyendra Jhaveri, former Chief Justice of Orissa High Court was the Chief Guest of the seminar. On this occasion, Mr. Kantilal Bam, Chairman, Icon Education Society, Dr. Akshay Kanti Bam, Chairman, Indore Institute of Law, Prof. (Dr.) Manpreet Kaur Rajpal, Director and Dean, Academics Indore Institute of Law, Dr. Babita Kadakia, Principal, Idyllic Institute of Management, Mr. Kamal Vyas, Executive Director Administration, Mr. S.C. Shrivastava, Chief Administrative Officer were present.

The program started with Saraswati Vandana and lamp lightening. After this, the Chief Guest of the International Women's Day Symposium on "Women Right Human Right", Justice Jhaveri was welcomed by Mr. Akshay Kanti Bam with a bouquet. The welcome address was given by Dr. Manpreet Kaur Rajpal, Director & Dean, Academics.

After this, Justice Jhaveri addressed the audience. In his remarks, Justice Jhaveri said that women have been playing a powerful role in Indian society since the very beginning. Referring to the atrocities on women, he described female feticide as a horrific crime. He described women as the reflection of Goddess Durga, Saraswati and Lakshmi and called them the builders of children's future. He also threw light on the Hindu Property Act and described the role of women in it. He mentioned about equal pay for equal work.

At the end of the program, Mr. Akshay Kanti Bam honoured Justice Jhaveri with a memento. The program ended with the vote of thanks.



Hon'ble Justice Kalpesh Satyendra Jhaveri, Former Chief Justice, Orissa High Court with the Management of Indore Institute of Law



Prayer Offering to Goddess Saraswati by Chief Guest Hon'ble Justice Kalpesh Satyendra Jhaveri, Former Chief Justice, Orissa High Court

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IIL Indore has secured

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Icon Education Society (I.E.S.), as a first step to achieve its objectives, decided to set up an exclusive and independent college to provide specialized, high quality Law education for professionals, coupled with all basic infrastructure facilities.

Indore Institute of Law is the first independent & exclusive College of Law in Indore, Affiliated to the Bar Council of India & Devi Ahilya Vishwavidyalaya (DAVV), Indore. The Study Course/ Admission/ Examination and Degree shall be strictly in terms of regulations of DAVV, Indore. Indore Institute of Law is only Private College in Madhya Pradesh where all the law courses are under one roof.

The Process of Execution in Death Sentence

Various modes and methods of inflicting death sentence upon the convict as practiced in different societies are examined in this article. Though the methods of execution are not exhaustive but it may reflect common practices followed in most of the countries.

CRUCIFICATION

Nailing a person to a wooden cross and leaving him there till he died was the torturous and popular method of executing death sentence during the years in B.C. Jesus Christ was crucified in this manner. This is the most cruel method of death punishment and order of this mode of execution of death punishment is found even today in several countries all over the world in the symbol of the cross over every Christian Church. The practice is still followed in some part of Iran and Saudi Arabia according to walesonline news reporter. The death in such a case depends upon the methods of execution, victim health and environment. Several possible cause of death is cardiac rupture, arrhythmia, hypovolemic shock, heart failure, acidosis, asphyxia and pulmonary embolism. Death could result from any combination of those factors or from other causes, including sepsis following infection due to the wounds caused by the nails or by the scourging that often preceded crucifixion, eventual dehydration, or animal predation.

BURNING AT THE STAKE

'Burning' dates back to the Christian era. Burning at the stake was a popular death sentence and means of torture, which was used mostly for heretics, witches, and suspicious women. It was in the year 643 AD, an Edict issued by Pope declared it illegal to burn witches. However, the increased persecution of witches throughout the centuries resulted in millions of women being burned at the stake. The first major witch placed on newspaper reports, articles, and books. hunt occurred in Switzerland in the year 1427 AD. Throughout the 16th and 17th Centuries, witch trials became common throughout Germany, Austria, Switzerland, England, Scotland, and Spain during the Inquisition. Soon after, witch trials began to decline in parts of Europe, and in England and the death penalty for witches was abolished. The last legal execution by burning at the stake took place at end of the Spanish Inquisition in 1834.

HEADMAN'S AXE

The procedure of death penalty through headman's axe was popular in Germany and England during the 16th and 17th centuries, where decapitation was thought to be the most humane form of capital punishment. An executioner, usually hooded, would chop off the person's head with an axe or sword. The last beheading took place in 1747 in United Kingdom. Later on, and before capital punishment was abolished recently, with a greater interest in humanitarianism, capital punishment became less gruesome than the beheadings and torture that were common place centuries before. Lethal injection and electrocution have become the preferred methods of execution in many countries mostly because these methods appeared to be less offensive to the public and more humane for the prisoner.

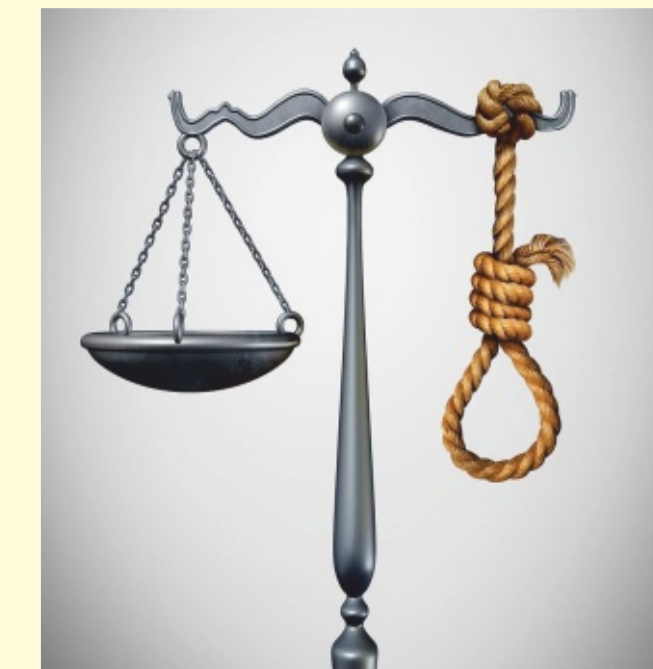
FIRING SQUAD

There is no fixed procedure when it comes to execution by firing squad. Usually the convict is tied to the pole, with hands and is blind folded and a cloth patch is put on his heart, or he is tied to a chair. In most cases, a team of five executioners is used to aim at the convict's heart. In some countries few of the rifles are loaded with blank bullets and the shooters are not told about it so that the true killer is unknown. Several countries like Russia and eastern countries like China, Thailand use this method. It is significant to note that shooting by firing squad is also permitted in India when a death sentence is given by Court Martial (This is discussed in detail subsequently). In some states in United States like Utah and Oklahoma, choice is given to the convict whether he should be shot to death by firing squad or by lethal injection. Gary Gilmore in 1977, and John Taylor in 1996 were executed by firing squad in Utah. It is significant to note that the leaders of the third Reich of Germany, who were given death punishment by hanging at the Nuremberg trials, asked for execution of death punishment by the firing squad as the former was

degrading and they wanted a military death. This reflects that death by hanging is not a dignified method of execution.

GAS CHAMBER

In an execution by the way of lethal gas, the prisoner is restrained and sealed in an airtight chamber. When given the signal, the executioner opens a valve, allowing hydrochloric acid to flow into a pan. Upon another signal, either potassium cyanide or sodium cyanide crystals are dropped mechanically into the acid, producing hydrocyanic gas. The hydro cyanic gas destroys the body's ability to process blood haemoglobin, and unconsciousness can occur within a few seconds if the prisoner takes a deep breath. However, if he or she holds their breath, death can take much longer, and the prisoner usually goes into wild convulsions. Death usually occurs within six to 18 minutes. After the pronouncement of death, the chamber is evacuated through the use of carbon and neutralizing filters. Crews wearing gas masks decontaminate the body with bleach solution, and it is out gassed before being released. If this process was not done, the undertaker or anyone handling the body would be killed. Nevada was the first state to sanction the use of the gas chamber, and the first execution by lethal gas took place in February, 1924. Since then it remained a means of carrying out the death sentence 31 times. Five States in the U.S.A. authorize the use of the gas chamber as an alternative to lethal injection, viz. Arizona, California, Maryland, Missouri, and Wyoming. In most cases the prisoner is allowed to choose the method of execution,



depending on his or her date of sentencing. Eleven people have been executed by lethal gas in the United States since 1976. This method however is expensive and cumbersome. It also brings back to the mind the sad fact that hundreds of thousands of Jews were killed in gas chamber by the Nazi Germany.

ELECTROCUTION

In a typical execution using the electric chair, a prisoner is strapped to a specially built chair, his head and body shaved to provide better contact with the moistened copper electrodes that the executioner attaches. Usually three or more executioners push buttons, but only one is connected to the actual electrical source and therefore the real executioner is not known. The jolt varies in power from state to state, and is also determined by the convict's body weight. The first jolt is followed by several more in a lower voltage. In Georgia, executioners apply 2,000 volts for four seconds, 1,000 volts for the next seven seconds and then 208 volts for two minutes. Electrocution produces visibly destructive effects on the body, as the internal organs are burned. The prisoner usually leaps forward against the restraints when the switch is turned on. The body changes colour, swells, and may even catch fire. The prisoner may also defecate, urinate, and vomit blood. The first electric chair designed for an execution was created by George Westinghouse at the turn of the century. Westinghouse was propositioned by the New York City Correctional Institution to design an electric chair, because many felt that the present form of execution, hanging, had become

too inhumane and out-dated. Westinghouse told the correctional institution that the chair's power source was so deadly that it would only take five seconds of 1,000 volts to cause death. However, the first man executed did not die after five seconds, but instead took four minutes of a steady stream of power to be finally pronounced dead. During these four minutes the body of the convict started to smoke, the hair on his arms and head ignited in flames, and blood spilled from every orifice on his face. After this display, the electric chair was considered a failure. Today the electric chair is modernized and is used in eleven States of U.S.A. But, Arkansas, Kentucky, Ohio, Oklahoma, South Carolina, Tennessee, and Virginia States of U.S.A. authorize both lethal injection and electrocution, allowing the inmates to choose one of these methods. Alabama, Florida, Georgia, and Nebraska, however, use electrocution as the sole means of execution. Since 1976, 144 people have been executed by electric chair.

LETHAL INJECTION

Death by lethal injection involves the continuous intravenous injection of a lethal quantity of three different drugs. The prisoner is secured on a gurney with lined ankle and wrist restraints. A cardiac monitor and a stethoscope are attached, and two saline intravenous lines are started, one in each arm. The inmate is then covered with a sheet. The saline intravenous lines are turned off, and Sodium Thiopental is injected, causing the inmate to fall into a deep sleep. The second chemical agent, Pancuronium Bromide, a muscle relaxer, follows. This causes the inmate to stop breathing due to paralysis of the diaphragm and lungs. Finally, Potassium Chloride is injected, stopping the heart.

Since 1976, many prisoners have been executed by lethal injection in the United States. Lethal injection is now the most common method of execution in the United States in regard to all the 66 executions carried out during 2001 being by this method. Of the 749 executions in America upto 2000, 586 have been carried out by lethal injection, including those of seven women. China also reported 8 executions by lethal injection during 2000.

Lethal injection was first considered as a means of execution in 1888 when New York's J. Mount Bleyer MD put it forward in an article in the Medico-Legal Journal suggesting that the intra-venous injection of six grains of Morphine should be used for execution of death sentence. The idea did not catch on and New York introduced the electric chair instead (Based on the findings of the New York Commission of Inquiry 1888). It was again put forward in 1977 by Dr. Stanley Deutsch, who at the time chaired the Anaesthesiology Department of Oklahoma University Medical School. In response to a call by an Oklahoma State senator Bill Dawson for a cheaper alternative to repairing the State's derelict electric chair, Deutsch described a way to administer drugs through an intravenous drip so as to cause death rapidly and without pain. Deutsch wrote to the Senator Bill Dawson "Having been anaesthetised on several occasions with ultra short acting barbiturates and having administered these drugs for approximately 20 years, I can assure you that this is a rapid, pleasant way of producing unconsciousness". And Oklahoma thus became the first State in the U.S.A. to legislate for it in 1977. Texas introduced similar legislation later in the same year to replace its electric chair and carried out the first execution by the method of lethal injection on December 7, 1982 when Charles Brooks was put to death for the murder. It will be relevant here to mention the observation of this execution procedure. The procedure began at 12.07 a.m. He was certified dead at 12.16 a.m. There was no apparent problem and Brooks seemed to die quite easily. At first he raised his head, clenched his fist and seemed to yawn or gasp before passing into unconsciousness. 36 American States now use lethal injection either as their sole method or as an option to one of the traditional methods.

(Data collected from 187th Law Commission Report)



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UNDERSTANDING ALTERNATIVE DISPUTE RESOLUTION IN INDIA

Alternative dispute resolution (ADR; known in some countries, such as India, as external dispute resolution) includes dispute resolution processes and techniques that act as a means for disagreeing parties to come to an agreement short of litigation. It is a collective term for the ways that parties can settle disputes, with (or without) the help of a third party.

Bodies such as the panchayat, a group of elders and influential persons in a village deciding the dispute between villagers are not uncommon even today. In 1982 settlement of disputes out of courts started through Lok Adalats. The first Lok Adalat was held on March 14, 1982 at Junagarh in Gujarat and now it has been extended throughout the country. Initially, Lok Adalats functioned as a voluntary and conciliatory agency without any statutory backing for its decisions. By the enactment of the Legal Services Authorities Act, 1987, which came into force from November 9, 1995, the institution of Lok Adalats received statutory status. To keep pace with the globalization of commerce the old Arbitration Act of 1940 is replaced by the new Arbitration and Conciliation Act, 1996. Settlement of matters concerning the family has been provided under Order XXXIIA of the Code of Civil Procedure, 1908 by amendment in 1976. Provisions for making efforts for reconciliation under Sections 23 (2) and 23 (3) of the Hindu Marriage Act, 1955 as also under Section 34 (3) of the Special Marriage Act, 1954 are made. Family Courts Act was enacted in 1984. Under Family Courts Act, 1984 it is the duty of family court to make efforts for settlement between the parties. Introduction of section 89 and Order X Rule 1A, 1B and 1C by way of the 1999 Amendment in the



Code of Civil Procedure, 1908 is a radical advancement made by the Indian Legislature in embracing the system of "Court Referred Alternative Disputes Resolution".

ADR first started as a quest to find solutions to the perplexing problem of the ever-increasing burden on the courts. It was an attempt made by the legislators and judiciary alike to achieve the "Constitutional goal" of achieving Complete Justice. Alternative Dispute

Resolution in India was founded on the Constitutional basis of Articles 14 and 21 which deal with Equality before Law and Right to life and personal liberty respectively. ADR also tries to achieve the Directive Principle of State Policy relating to Equal justice and Free Legal Aid as laid down under Article 39-A of the Constitution.



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RECENT DEVELOPMENTS IN THEORIES OF DIVORCE



Marriage unlike any other Civil Contract was not easy to dissolve as it is today. When in 1857 the first Matrimonial Causes Act was passed the jurisdiction over the Matrimonial matters was transferred from ecclesiastical Courts to Civil Court, then the ground of divorce was only one. Husband can seek divorce only on the ground of adultery but wife could not seek divorce on simple ground of adultery of her husband. It was later on the desertion and cruelty were added as a ground of divorce and either party can be permitted to seek divorce.

Offence or Guilt theory classifies divorce into two

grounds, (i) Marriage is an exclusive union and if not an exclusive union, it ceases to be marriage. It implies that parties will live with each other in harmony and in mutual confidence. (ii) Matrimonial offences are committed to the notion of criminality and divorce may be granted as a mode of punishment to the guilty. During the early formation of law on divorce in England, and most of the part of Commonwealth countries, also in most of the states in USA, Offence Theory was considered as most appropriate ground of divorce, where a marriage can be dissolved only if one of the parties to the marriage has committed

matrimonial offences, and if both of the parties have committed matrimonial offences then divorce to the petitioner cannot be allowed following the theory of Doctrine of recrimination. The Indian Divorce Act, 1869 adopted the then existing English Law principles whereunder s 7 of the Act the Marriage can be dissolved on the petition of husband on the ground that the husband has changed his religion and has married again, or has been guilty of incestuous adultery, or bigamy with adultery, or marriage with another woman with adultery, or adultery coupled with cruelty, or adultery coupled with desertion without reasonable cause for a period of two years, or of rape sodomy or bestiality. Insanity and Cruelty on the same pattern as under the Hindu Marriage Act, 1955 were added as ground of divorce by the amending Act, 1988.

The Special Marriage Act, 1954 amended by the Marriage Law Amendment Act, 1976 recognised 8 other grounds of divorce based on guilt theory and two additional grounds where wife alone can seek divorce, i.e. Rape, Sodomy or bestiality of husband. The right grounds are: Adultery; Desertion for at least three years, imprisonment for at least 7 years or more, cruelty, Venereal Diseases on the condition that it is not communicated from the petitioner, incurable insanity or continuous or intermittent mental disorder, and presumption of death. The Hindu Marriage Act, 1955 as amended by Marriage Law (Amendment) Act, 1976 lays 7 ground of divorce based on guilt theory. They are Adultery, Conversion to non-Hindu Religion, incurable insanity or mental disorder, virulent and incurable leprosy, venereal disease in communicable form, taking to sanyasa, and presumption of death.



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THE SCOPE OF RIGHT TO LIVE WITH DIGNITY IS NOT ONLY TO THE LIVING BUT ALSO TO HIS DEAD BODY

"As more men become more educated and women get educated, the value system has to be more enhanced and the respect for human dignity and human life is made better".

- Ellen Johnson Sirleaf

Article 21 of the Constitution of India which provides "No person shall be deprived of his life and liberty except according to procedure established by law." The procedure established by law should be as per the natural justice, and be fair, just and reasonable.

This right which got the right to live with dignity as in case of Maneka Gandhi v. Union of India, [AIR 1978 SC 597: (1978) 1 SCC 248], it was observed that this fundamental right represents the basic values cherished by the people of their country since Vedic times and they are calculated to protect the dignity of the individual and create conditions in which every human being can develop his personality to the fullest extent. The term 'living' does not merely mean physical survival or existence but also includes having the adequate means of living which includes the food, water, education, shelter, and decent environment. As the 'right to life' includes the



right to 'live with human dignity' which means that this right is going to exist up to the end of the natural life. This also includes the 'dignified procedure of death'. Right to life should not be confused with the right to die, there is no such right to die in the scope of Article 21.

The scope of the Right to live with human dignity is not only to a living man but also to his dead body which came in the case of ParamanandKetara v. Union of India, [AIR (1995) 3 SCC 248] and also applies to the homeless deceased, this principle came in case of AshrayAdhikarAbhiyam v. Union of India, [AIR 2002 SC 554 : (2002) 2 SCC 27]. The Preamble of the

International Covenant as Civil and Political Rights, 1966 (ICCPR) and International Covenant of Economics, Social and Cultural Rights, 1966, (ICESCR) talks about the recognition of the inherent dignity and of the equal and inalienable rights of all members of this human family is the foundation of freedom, justice and peace of the world. Article 10(1) of the ICCPR proclaims: "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person". It was also there that any violation of the woman society in the country in body or body leading to justifiable unhappy existence is bound to attract Article 21. The beauty contests tend to offend the dignity of a woman to deal with her indecency and would offend Article 21. This came in the case of Chandra Rajkumari v. Police Commr., Hyderabad, [AIR 1998 AP 302] as "Beauty Contests repugnant to dignity or decency is violation of Article 21 and 51A"



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HIGH COURT CANNOT MAKE UNREASONABLE INTERFERENCE IN THE ORDER OF TRIAL COURT

The Supreme Court in State of Maharashtra v. Jagmohan Singh AIR 2004 has explained the revisional jurisdiction of High Court that it would be unreasonable to interfere with the order of the acquittal in exercise of its revisional jurisdiction at the instance of the informant. Though High Court can differ from trial court based on the admissibility of evidence but it cannot be only reason for exercise of revisional jurisdiction u/s 401 against the judgment of acquittal. In the absence of any legal infirmity either in procedure or in conduct of the trial court, there is no justification for the High Court to interfere in the exercise of its revisional jurisdiction. It has been held in several judgments that the High Court should not re-appreciate the evidence to reach the finding different from the trial court. The revisional jurisdiction of High Court is only appreciated when there is manifest illegality in the finding of trial court resulting in grave miscarriage of justice. It is therefore established that the High Court could not convert the finding of acquittal into conviction directly u/s 401 (3) CrPC, it could not do so indirectly by the method of ordering of retrial. The High Court shall not interfere in the revision of an order of acquittal except in exceptional cases where the interest of public justice requires interference for the correction of a



manifest illegality or the prevention of gross miscarriage of justice. The apex court, for this purpose, has not made an exhaustive list of circumstances in which the exercise

of revisional jurisdiction may be justified but the decisions of apex court have laid down the parameters for the exercise of revisional jurisdiction of High Court u/s 401 in an appeal against acquittal by the private party. The high Court while acting as a revisional court cannot exercise the power of a second appellate court. In P.V. Narasimha Rao v State, 2000, where the trial court appreciated the evidence and there was no evidence which had been wrongly or not considered or, if admitted, not considered and/or any other defect or illegality which could necessitate an interference, it would not be open to the High Court to act aside the order of the trial court merely because another opinion was possible on the same evidence. In Tutul Kumari Sen v State of Jharkhand AIR 2009 a revision petition was filed against the discharge given to the accused merely on the ground that the FIR did not disclose the commission of any offence. No reasons were given for arriving at such a conclusion. The order of the discharge was held to be not sustainable.



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CURRENT AFFAIRS, March 2022

- Justice of India raised concerns about the lack of women among High Court judges. He made this remark while addressing an event on the occasion of the International Day of Women Judges (10th March). In High Courts, the percentage of women judges is merely 11.5%, while in the Supreme Court out of 33 judges in office there are only four sitting women judges.
- Recently, a Public interest Litigation (PIL) in Madras High Court sought that all documents must also require the mother's name to be mentioned along with the father's. In the recent past, there have been changes in the rules for Passport and Permanent Account Number (PAN) cards that allow an applicant to furnish their mother's name if she is a single parent.
- Recently, the Andhra Pradesh High Court directed the State government to construct and develop Amaravati, the capital city of the State, and the capital region within six months. The Andhra Pradesh Legislative Assembly passed the AP Decentralisation and Inclusive Development of All Regions Bill, 2020.
- Recently, the Union Cabinet has approved a proposal to amend the Second Schedule to the MMDR

- (Mines and Minerals Development and Regulation) Act to specify the royalty rates of certain minerals, including potash, emerald and platinum group of metals. The Act was amended in 2015 to usher the new regime of granting mineral concessions through auction to ensure transparency and non-discrimination in allocation of mineral wealth of the country.
- Recently the 37th Foundation Day of National Crime Records Bureau (NCRB) was celebrated i.e. on 11th March 1986. NCRB, headquartered at New Delhi, was set-up in 1986 under the Ministry of Home Affairs to function as a repository of information on crime and criminals so as to assist the investigators in linking crime to the perpetrators.
- The Reserve Bank of India (RBI) has launched new UPI services for feature phones called UPI123Pay for non internet users to make digital payments, also launched a 24x7 helpline for digital payments called 'Digisaathi'.
- Recently, the Union Cabinet has approved the setting up of National Land Monetization Corporation (NLMC) as a wholly owned Government of India company. NLMC will undertake surplus land asset

- monetisation as a functioning agency to assist and provide technical advice to the Centre in this regard.
- Recently, India abstained from voting at the UN Human Rights Council in Geneva. The Council moved the resolution to set up an international commission of enquiry into Russia's actions in Ukraine. The move is significant in the terms that the vote followed even after India's meeting with Quad countries. 3/4 India has also abstained from similar resolutions in the United Nations General Assembly and United Nations Security Council.
- When Russia launched a military invasion of Ukraine, the purported reason behind this act of territorial aggression was the eastward expansion of the North Atlantic Treaty Organisation (NATO).
- Recently, many women soldiers were trained to be a part of a United Nations Peacekeeping mission. For more than a decade, the United Nations (UN) has called for more participation from women in conflict prevention, post-conflict peacebuilding and peacekeeping.