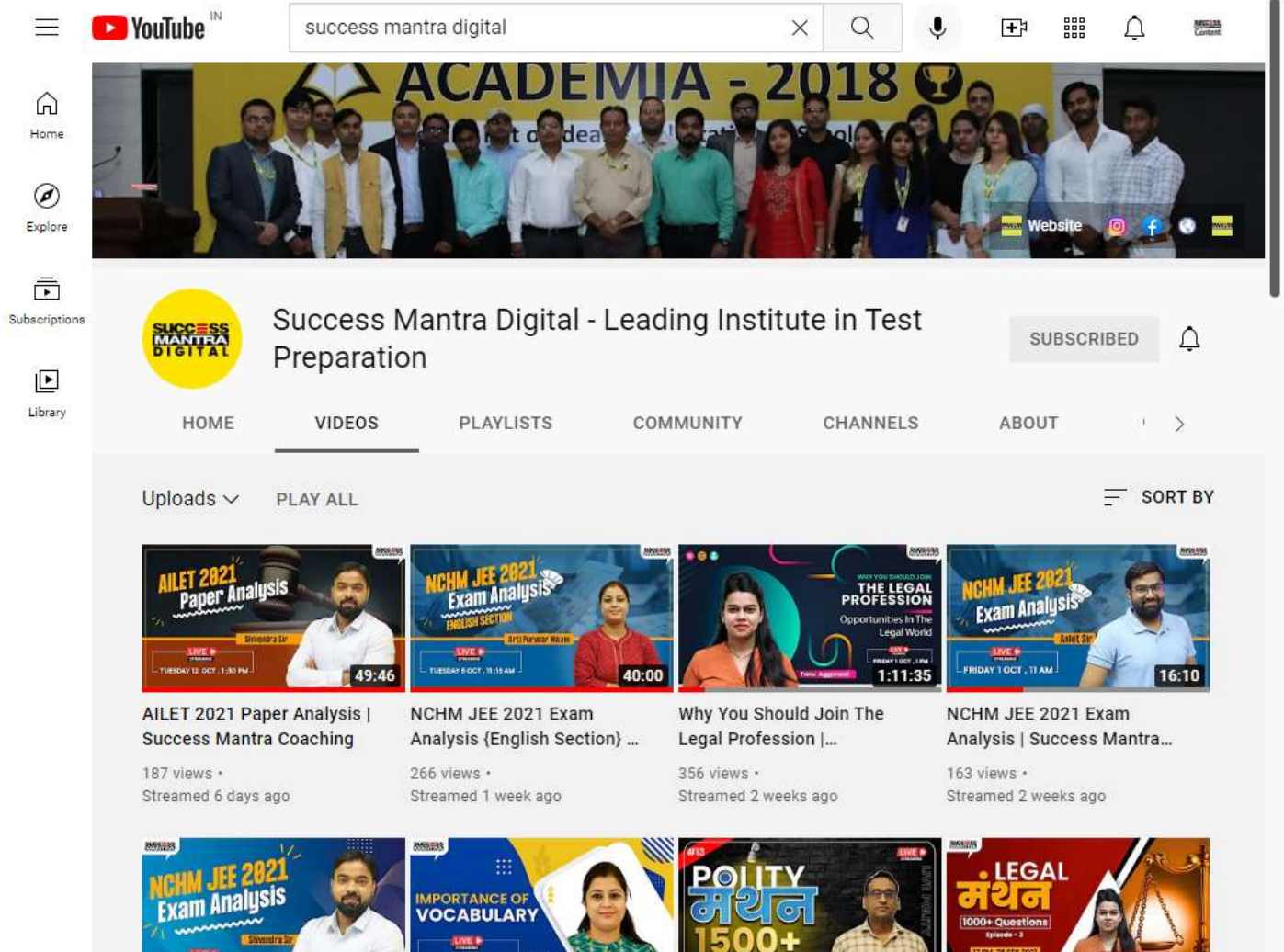


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#KARNATAKA PASSED ANTI-CONVERSION BILL

- Karnataka legislative assembly passed the **controversial anti-conversion bill** on December 23, 2021 amid long debates. The bill seeks to curb illegal religious conversions.
- The **Karnataka Protection of Right to Freedom of Religion Bill, 2021** was introduced in the state legislative assembly and was passed by voice vote amid protests from the opposition that demanded longer debate on the bill.

**What does Karnataka's anti-conversion Bill proposes?**

- The Karnataka Right to Freedom of Religion Bill, 2021 prohibits conversion from one religion to another by misrepresentation, force, fraud, allurement or marriage.
- The bill exempts those who reconvert into their immediate previous religion as it will not be deemed to be conversion under the Act.
- **Under the bill's provisions**, marriages conducted with the intention of conversion will be deemed null and void. The bill also provides that family members or any **other person related to the individual getting converted can file a complaint against it**.
- The **bill seeks compensation worth Rs 5 lakh for victims of conversion** by the persons attempting the conversion and double punishment for repeat offences.
- The bill makes the offence of conversion cognizable and non-bailable. The bill proposes jail term of up to 3-5 years and a fine of Rs 25,000 for those found guilty of converting people from the general category.
- Further, it proposes a jail term of 3-10 years and a fine of Rs 50,000-1 lakh **for those converting minors, women or persons from SC/ST communities**.

Anti-Conversion Laws in India:

- **Constitutional Provision:** The Indian Constitution under **Article 25** guarantees the freedom to **profess, propagate, and practise religion**, and allows all religious sections to manage their own affairs in matters of religion; subject to public order, morality, and health.
- However, **no person shall force their religious beliefs** and consequently, no person should be forced to practice any religion against their wishes.
- **Existing Laws:** There has been **no central legislation** restricting or regulating religious conversions.
- However, since 1954, on multiple occasions, **Private Member Bills** have been introduced in **(but never approved by) the Parliament**, to regulate religious conversions.
- Further, in 2015, the Union Law Ministry stated that **Parliament does not have the legislative competence** to pass anti-conversion legislation.
- Over the years, **several states have enacted 'Freedom of Religion' legislation** to restrict religious conversions carried out by force, fraud, or inducements.

Issues Associated with Anti-Conversion Laws:

- **Uncertain and Vague Terminology:** The uncertain and vague terminology like **misrepresentation, force, fraud, allurement** presents a serious avenue for misuse.
- These terms leave room for ambiguities or are too broad, extending to subjects far beyond the protection of religious freedom.
- **Antithetical to Minorities:** Another issue is that the present anti-conversion laws focus more on the prohibition of conversion to achieve religious freedom.
- However, the broad language used by the prohibitive legislation might be used by officials to oppress and **discriminate against minorities**.
- **Antithetical to Secularism:** These laws may pose a threat to the **secular fabric of India** and the **international perception** of our **society's intrinsic values and legal system**.
- **Supreme Court on Marriage and Conversion:**
- **Hadiya Judgement 2017:** Matters of dress and of food, of ideas and ideologies, of love and partnership are within the central aspects of identity.
- Neither the State nor the law can dictate a choice of partners or limit the free ability of every person to decide on these matters.
- The principle that the right to marry a person of one's choice is integral to **Article 21**.
- **K.S. Puttuswamy or 'privacy' Judgment 2017:** Autonomy of the individual was the ability to make decisions in vital matters of concern to life.

Other Judgements:

- The SC in its various judgments has held that **faith, the state and the courts have no jurisdiction over an adult's absolute right** to choose a life partner.
- India is a "**free and democratic country**" and any interference by the State in an adult's right to love and marry has a "**chilling effect**" on freedoms.
- Intimacies of marriage lie within a **core zone of privacy**, which is inviolable and the choice of a life partner, whether by marriage or outside it, is part of an **individual's "personhood and identity"**.
- The absolute right of an individual to choose a life partner is **not in the least affected by matters of faith**.

#WHAT IS HATE SPEECH?

Recently, an FIR was filed against a leader in Uttarakhand for promoting enmity amongst different sections of the society.

About:

- In general, it refers to words **whose intent is to create hatred towards a particular group**, that group may be a community, religion or race. This speech may or may not have meaning, but is likely to result in violence.
- The **Bureau of Police Research and Development** recently published a manual for investigating agencies on cyber



harassment cases that defined hate speech as a language that denigrates, insults, threatens or targets an individual based on their identity and other traits (such as sexual orientation or disability or religion etc.).

- In the **267th Report of the Law Commission of India**, hate speech is stated as an incitement to hatred primarily against a group of persons defined in terms of race, ethnicity, gender, sexual orientation, religious belief and the like.
- In order to determine whether a particular instance of speech is a hate speech or not, the context of the speech plays an important role.
- One of the greatest challenges is **not to exercise the principle of autonomy and free speech principles** that are detrimental to any section of society.
- Free speech is necessary to promote a plurality of opinions where hate speech becomes **an exception to Article 19(1) (a)** (Freedom of Speech and Expression).

Major Reasons of Hate Speech:

- **Feeling of Superiority:** Individuals believe in stereotypes that are ingrained in their minds and these stereotypes lead them to believe that a class or group of persons are inferior to them and as such cannot have the same rights as them.
- **Stubbornness to Particular Ideology:** The stubbornness to stick to a particular ideology without caring for the right to co-exist peacefully adds further fuel to the fire of hate speech.

Legal Position of Hate Speech:

- Under Indian Penal Code: Sections 153A and 153B of the IPC: **Punishes acts that cause enmity and hatred between two groups.**
- Section 295A of the IPC: **Deals with punishing acts which deliberately or with malicious intention outrage the religious feelings of a class of persons.**
- Sections 505(1) and 505(2): **Make the publication and circulation of content which may cause ill-will or hatred between different groups an offence.**

Under Representation of People's Act:

- **Section 8 of the Representation of People's Act, 1951 (RPA):** Prevents a person convicted of the illegal use of the freedom of speech from contesting an election.
- **Sections 123(3A) and 125 of the RPA:** Bars the promotion of animosity on the grounds of race, religion, community, caste, or language in reference to elections and include it under corrupt electoral practices.

Suggestion for Changes in IPC:

- **Viswanathan Committee 2019:** It proposed inserting **Sections 153 C (b) and Section 505 A in the IPC** for incitement to commit an offence on grounds of religion, race, caste or community, sex, gender identity, sexual orientation, place of birth, residence, language, disability or tribe.
- It proposed punishment of up to two years along with Rs. 5,000 fine.
- **Bezbaruah Committee 2014:** It **proposed amendment to Section 153 C of IPC** (promoting or attempting to promote acts prejudicial to human dignity), punishable by five years and fine or both and

Section 509 A IPC (word, gesture or act intended to insult member of a particular race), punishable by three years or fine or both.

Some Cases Related to Hate Speech:

- **SC' s Recent Judgement:** In the context of discussing the limits of free speech and what may tantamount to hate speech, the Supreme Court (SC) has recently held that "Historical truths must be depicted without in any way disclosing or encouraging hatred or enmity between different classes or communities."
- **Shreya Singhal v. Union of India:** Issues were raised about **Section 66A of the Information Technology Act, 2000** relating to the fundamental right of free speech and expression guaranteed by **Article 19(1) (a) of the Constitution**, where the Court differentiated between discussion, advocacy, and incitement and held that the first two were the essence of **Article 19(1)**.
- **Arup Bhuyan vs State of Assam:** The Court held that a **mere act cannot be punished unless** an individual resorted to violence or inciting any other person to violence.
- **S. Rangarajan Etc vs P. Jagjivan Ram:** In this case, the Court held that **freedom of expression cannot be suppressed unless the situation so created is dangerous** to the community/ public interest wherein this danger should not be remote, conjectural or far-fetched. There should be a proximate and direct nexus with the expression so used.

#CONSUMER PROTECTION (DIRECT SELLING) RULES, 2021

Recently, the Centre has **notified Consumer Protection (Direct Selling) Rules, 2021** for the direct selling industry.

- It **prohibits promotion of pyramid schemes** and participation in **money circulation schemes**.
- It has been notified in exercise of the powers conferred by the **Consumer Protection Act, 2019**.
- Earlier, the government notified and made effective the provisions of the **Consumer Protection (E-Commerce) Rules, 2020** under the Consumer Protection Act, 2019.



About:

- The rules **lay down duties and obligations** of both direct selling entities and their direct sellers to "safeguard the interest of consumers".
- The **existing direct selling companies** will need to ensure they comply with the rules within 90 days.
- However the direct sellers as well as the **direct selling entities using e-commerce platforms** for sale shall comply with the requirements of the **Consumer Protection (e-Commerce) Rules, 2020**.
- **Applicability of the Rules:** It will **apply to:**
 - All **goods and services bought or sold through direct selling**.
 - All **models of direct selling**, all direct selling entities offering goods and services to consumers in India.
 - All forms of **unfair trade practises** across all models of direct selling.
 - To **direct selling entities which are not established in India**, but offers goods or services to consumers in India.

Major Provisions of the New Rules:

- **Mechanism to Monitor Activities:** It directed **State governments to set up a mechanism to monitor or supervise the activities** of direct sellers and direct selling entities.
- **Grievance Redressal Mechanism:** Direct selling companies will **need to establish an adequate grievance redressal mechanism**.
- Direct selling entities will have to **bear the liability in any action related to the authenticity** of such goods or services.
- Every direct selling entity will have to **appoint a nodal officer** who shall be responsible for ensuring compliance with the provisions of the Act and the rules.
- **Cannot Induce Consumers:** Direct selling companies or their direct sellers **cannot persuade consumers to make a purchase based upon the representation** that they can reduce or recover the price by referring prospective customers to the direct sellers for similar purchases.

Obligation upon Direct Selling Entities:

- **Incorporation Under Some Act:** Incorporation under the **Companies Act 2013** or if a partnership firm, be registered under the **Partnership Act, 1932**, or if a limited liability partnership, be registered under the **Limited Liability Partnership Act, 2008**.
- **Have a Physical Location:** A minimum of **one physical location** as its registered office within India will be necessary.
- **Self-declaration:** Entities will have to **make self-declaration** to the effect that Direct Selling Entity has **complied with the provisions of the Direct Selling rules** and is not involved in any **Pyramid Scheme or money circulation scheme**.
- **Significance:** These new rules would also **bring clarity in the marketplace** and would give **impetus to the direct selling industry**, which is already providing livelihood to over 70 lakh Indians, in which more than 50% are women.

Consumer Protection (e-Commerce) Rules, 2020

- **About:** The Consumer Protection (E-commerce) Rules, 2020 are **mandatory and are not advisories**.
- **Applicability:** Apply to all **e-commerce retailers**, whether registered in India or abroad, offering goods and services to Indian consumers.
- **Nodal officer:** E-commerce entities need to appoint a nodal person, resident in India to ensure compliance with the provisions of the act or rules.
- **Prices and Expiry Dates:** The sellers through the e-commerce entities will have to display the total price of goods and services offered for sale along with the break-up of other charges.
- Expiry date of the good needs to be separately displayed.

#DEMAND FOR INCLUDING LADAKH UNDER 6TH SCHEDULE

Recently, a demand has been raised in **Parliament** to include the **Union Territory (UT) of Ladakh** in the **Sixth Schedule of the Constitution** to safeguard land, employment, and cultural identity of the local population.

- The **Jammu and Kashmir Reorganisation Act, 2019** was introduced to bifurcate the State into two separate **union territories of Jammu and Kashmir (with legislature), and Ladakh (without legislature)**.

**Need of Inclusion in Sixth Schedule:**

- The **administration of the UT of Ladakh region is now completely in the hands of bureaucrats**. The government now looks even more distant than Srinagar.
- The **changed domicile policy** in Jammu and Kashmir has raised fears in the region about its own land, employment, demography, and cultural identity.
- The UT has two Hill councils in Leh and Kargil, but neither is under the Sixth Schedule.
- Their **powers are limited to collection** of some local taxes such as parking fees and allotment and use of land vested by the Centre.

NCST Recommendation:

- The **National Commission for Scheduled Tribes (NCST)** has recommended that the **Union Territory (UT) of Ladakh be included in the Sixth Schedule of the Constitution**.
- **NCST, a constitutional body** to safeguard socio-cultural rights of Scheduled Tribes, was entrusted with the responsibility of examining the status of tribals in Ladakh, by the Centre.
- **If included, Ladakh will be the only UT in the Sixth Schedule**. Also, bestowing such a status to Ladakh would **require a constitutional amendment**.

Reasons Behind the Recommendation

- It is estimated that **more than 90% of Ladakh's population is tribal**. The primary **Scheduled Tribes (STs)** in Ladakh are **Balti Beda, Bot (or Boto), Brokpa (or Drokpa, Dard, Shin), Changpa, Garra, Mon and Purigpa**.
- The Ladakh region has **several distinct cultural heritages** by communities such as Drokpa, Balti and Changpa, among others, which needs to be preserved and promoted.
- **Prior to the creation of the Union Territory of Ladakh, people in Ladakh region had certain agrarian rights** including right on land which restricted people from other parts of the country to purchase or acquire land in Ladakh.
- Inclusion in the sixth schedule **will help in democratic devolution of powers** in the region and will also enhance the transfer of funds for speedy development of the region.

Difficulty Behind Ladakh's Inclusion:

- Ladakh's inclusion in the Sixth Schedule would be difficult. The Constitution is very clear, the Sixth Schedule is for the Northeast.

- For tribal areas in the rest of the country, there is the **Fifth Schedule**.
- Notably, no region outside the Northeast has been included in the Sixth Schedule.
- In fact, even in Manipur, which has predominantly tribal populations in some places, the autonomous councils are not included in the Sixth Schedule.
- Nagaland and Arunachal Pradesh, which are totally tribal, are also not in the Sixth Schedule.
- However, it remains the **prerogative of the government**; it can, if it so decides, bring a Bill to amend the Constitution for this purpose.

Sixth Schedule

- **Article 244:** The Sixth Schedule under **Article 244** provides for the formation of autonomous administrative divisions — **Autonomous District Councils (ADCs)** — that have some legislative, judicial, and administrative autonomy within a state.
- The **Sixth Schedule** contains **special provisions for the administration of tribal areas in the four north-eastern states of Assam, Meghalaya, Tripura and Mizoram**.
- **Autonomous Districts:** The tribal areas in these four states have been constituted as autonomous districts. The **governor is empowered to organise and re-organise the autonomous districts**.
- The acts of Parliament or the state legislature do not apply to autonomous districts or apply with specified modifications and exceptions.
- The power of direction, in this regard, lies **either with the President or Governor**.
- **District Council:** Each autonomous district has a district council **consisting of 30 members, of whom four are nominated by the Governor** and the remaining 26 are elected on the basis of adult franchise.
- The elected members hold office for a term of five years (unless the council is dissolved earlier) and nominated members hold office during the pleasure of the governor.
- Each autonomous region also has a separate regional council.
- **Powers of the Council:** The district and regional councils administer the areas under their jurisdiction.
- They can make **laws on certain specified matters like land, forests, canal water, shifting cultivation**, village administration, and the inheritance of property, marriage and divorce, social customs and so on. But **all such laws require the assent of the Governor**.
- They can **constitute** village councils or **courts for trial of suits and cases between the tribes**. They hear appeals from them. The jurisdiction of the high court over these suits and cases is specified by the governor.
- The district council **can establish, construct or manage** primary schools, dispensaries, markets, ferries, fisheries, roads and so on in the district.
- They are empowered to **assess and collect land revenue** and to impose certain specified taxes.

#WOMEN'S LEGAL MARRIAGE AGE RAISED TO 21

- Union Cabinet on December 15, 2021 cleared a bill to raise women's legal marriage age from 18 to 21 years after reviewing a proposal from a specially constituted task force.
- The task force had made its recommendations after holding extensive consultations with experts and young adults, especially young women.



- The **present legal marriageable age for women is 18 years and for men it is 21 years**. The decision to raise the marriageable age of women will bring the marriageable age of men and women at par.

- Prime Minister Narendra Modi had first announced this plan during his Independence Day address in 2020.
- As per reports, following the cabinet's approval of the proposal of raising the marriageable age of women, the centre is expected to introduce an amendment to the **Prohibition of Child Marriage Act, 2006** and consequently bring amendments to the Special Marriage Act and personal laws such as the **Hindu Marriage Act, 1955**.

Jaya Jaitly Task Force

- The **Union Ministry of Women and Child Development** had set up the special task force in June 2020 to examine various matters pertaining to the age of motherhood, lowering Maternal Mortality rates, improving nutritional and other related issues.
- After reviewing all matters, the **task force submitted its recommendations to Niti Aayog**. The task force had received some objections from certain quarters.
- **Headed by Jaya Jaitly**, the task force comprises Niti Aayog member Dr. V K Paul and Secretaries of the Women and Child Department, Health and Education ministries and of the Legislative Department.
- The task force was constituted to look at the feasibility of increasing the marriage age and its implication on women and child health and how to increase access to education for women.

Task Force recommendations

- Besides raising the marriageable age of women to 21 years, the **task force has recommended sex education to be formalised and introduced in the school curriculum**.
- It has also recommended training of women in polytechnic institutes, skills and business training and livelihood enhancement as a means to ensure that an increase in marriageable age can be implemented.

Why was the task force formed?

- The government decided to form the task force to re-examine marriage age for women due to various reasons including to reduce Maternal Mortality Rate, infant mortality rate and improve overall health and mental wellbeing of women and their children and for the **empowerment of women who get cut off from education and livelihood after early marriage**.

#ARMED FORCES (SPECIAL POWERS) ACT, 1958

- The Nagaland Assembly on December 20, 2021, unanimously **passed a resolution demanding the repeal of AFSPA in Nagaland.**
- The resolution for the removal of the Armed Forces Special Powers Act was adopted during a special session that was held in aftermath of the botched security ambush that claimed the lives of 14 civilians earlier in December 2021.



- Massive protests have been held in the Capital, Kohima, with the **Nagaland cabinet also recommending the repeal of the law.**

History of AFSPA in Nagaland

- The Armed Forces Special Powers Act is a 1958 act of the Indian Parliament that grant special powers to the Indian armed forces to maintain public order in disturbed areas.
- One such act which was passed on September 11, 1958, **was applicable to the Naga Hills, then the part of Assam.**
- **The territorial scope of the Armed Forces (Assam and Manipur) Special Powers Act, 1958, further expanded to seven states of the Northeast including Nagaland. It was enacted in the region by the Indian Parliament to give the Indian Security Forces special powers to deal with the Naga armed insurgency.**
- The ethnic group of Nagaland demands independent 'greater Nagaland'.

Armed Forces (Special Powers) Act, 1958

- The **Act was enacted in 1958** to bring under control what the government considered 'disturbed areas'.
- **Jammu & Kashmir has a similar but separate act** Armed Forces (Jammu & Kashmir) Special Powers Act, 1990.
- It is effective in the whole of **Nagaland, Assam, Manipur** (excluding seven assembly constituencies of Imphal) and **parts of Arunachal Pradesh.** The Centre revoked it in Meghalaya on April 1, 2018.

- The Act **empowers the Governor/Administrator of state/UT to declare an area as 'disturbed'**. Once declared, the region has to maintain the status quo for a minimum of three months (according to Disturbed Areas (Special Courts) Act, 1976).
- As per the Act, it can be invoked in places where the use of armed forces in aid of civil power is necessary.
- The AFSPA gives power to the Army and Central forces deployed in "disturbed areas" **to search premises and arrest without warrant, to use force even to the extent of causing death.**
- It also gives **immunity to security forces** in carrying out various operations and provides cover to forces from prosecution and legal suits without the Centre's sanction.
- To check arbitrariness there should be a **periodic review of 'disturbed area' every six months.**

Debate around AFSPA

- AFSPA has become a controversial act due to the **wide-ranging power** it gives to armed forces and **alleged human rights violation** under the act.
- There were questions about the **constitutionality of AFSPA**, given that **law and order is a state subject.**
- **Supreme Court's Judgement:** The Supreme Court has upheld the constitutionality of AFSPA in a 1998 judgment (**Naga People's Movement of Human Rights v. Union of India**).
- In this judgment, the Supreme Court held that
- a suo-motu declaration can be made by the Central government, however, it is desirable that the state government should be consulted by the central government before making the declaration;
- the declaration has to be for a limited duration and there should be a periodic review of the declaration 6 months have expired;
- while exercising the powers conferred upon him by AFSPA, the authorized officer should use minimal force necessary for effective action,
- **Jeevan Reddy Committee:** In November 2004, the Central government appointed a five-member committee headed by Justice B P Jeevan Reddy to review the provisions of the act in the northeastern states.
- The committee recommended that:
- **AFSPA should be repealed** and appropriate provisions should be inserted in the Unlawful Activities (Prevention) Act, 1967.
- The **Unlawful Activities Act should be modified** to clearly specify the powers of the armed forces and paramilitary forces and
- **Grievance cells** should be set up **in each district** where the armed forces are deployed.
- **Second ARC Recommendation:** The **5th report of the Second Administrative Reforms Commission (ARC)** on public order has also recommended the **repeal of the AFSPA**. However, These recommendations have not been implemented.

#WHAT IS GREATER TIPRALAND DEMAND?

Recently, **several tribal outfits in Tripura** have joined hands to push their demand for a separate state, **Greater Tipraland** for indigenous communities in the region.

- Among the political parties that have come together for the cause are **TIPRA Motha** (Tipraha Indigenous Progressive Regional Alliance) and **IPFT** (Indigenous People's Front of Tripura).
- **The Demand:** The parties are demanding a **separate state of 'Greater Tipraland'** for the indigenous communities of the north-eastern state.
- They **want the Centre to carve out the separate state under Article 2 and 3** of the Constitution.
- Among the 19 notified **Scheduled Tribes** in Tripura, **Tripuris** (aka Tipra and Tiprasas) are the largest.
- According to the 2011 census, **there are at least 5.92 lakh Tripuris in the state**, followed by **Bru or Reang** (1.88 lakh) and **Jamatias** (83,000).

**Article 2 & 3**

- **Article 2:** Parliament may by law **admit into the Union, or establish, new States** on such terms and conditions as it thinks fit.
- However, **Parliament cannot establish a new union territory by passing a law that** can only be done through a constitutional amendment.
- States like Sikkim (previously not within India) became a part of the country under Article 2.
- **Article 3:** It empowered the Parliament **to make law relating to the formation of new states** and alteration of existing states.
- **Immediate Cause:** The churn in the state's politics with the rise of TIPRA Motha and the **Assembly polls due in early 2023** are the two major reasons behind the development.

Historical Background:

- Tripura was a kingdom ruled by the **Manikya dynasty from the late 13th century** until the signing of the Instrument of Accession with the Indian government in 1949.
- The demand stems from the **anxiety of the indigenous communities in connection with the change in the demographics of the state**, which has reduced them to a minority.
- It happened due to the **displacement of Bengalis from the erstwhile East Pakistan between 1947 and 1971**.
- From 63.77% in 1881, the population of the tribals in Tripura was down to 31.80% by 2011.
- In the intervening decades, **ethnic conflict and insurgency gripped the state, which shares a nearly 860-km long boundary with Bangladesh**.
- The joint forum has also pointed out that the **indigenous people have not only been reduced to a minority, but have also been dislodged from land reserved** for them by the penultimate king of the Manikya dynasty **Bir Bikram Kishore Debbarman**.

Initiatives to Address the Issue:

- **Tripura Tribal Areas Autonomous District Council:** The Tripura Tribal Areas Autonomous District Council (TTADC) was formed under the sixth schedule of the Constitution in 1985 to ensure development and secure the rights and cultural heritage of the tribal communities.
- **'Greater Tipraland'** envisages a situation in which the entire TTADC area will be a separate state. It also proposes dedicated bodies to secure the rights of the Tripuris and other aboriginal communities living outside Tripura.
- The TTADC, which has legislative and executive powers, covers nearly two-third of the state's geographical area.
- The council comprises 30 members of which 28 are elected while two are nominated by the Governor.
- **Reservation:** Also, out of the 60 Assembly seats in the state, 20 are reserved for Scheduled Tribes.
- **Other Demands in the North East**
- **Greater nagalim** (Parts of Arunachal Pradesh, Manipur, Assam and Myanmar)
- **Bodoland** (Assam)
- **Tribal Autonomy Meghalaya**

#ELECTION LAWS (AMENDMENT) BILL, 2021

- **The Election Laws (Amendment) Bill, 2021** was introduced in the Lok Sabha on December 20, 2021.
- The tabling of the bill led to uproar in the house by the opposition. The bill seeks to make amendments to the Representation of the People Act including linking of electoral roll with Aadhaar on a voluntary basis to root out multiple enrolments. The Union Cabinet had approved the bill on December 15, 2021.



Following are the proposed amendments

- **Gender Neutral Process for Service Voters**
- The bill cleared by the **Union Cabinet proposes** to make the electoral process gender-neutral for service voters.
- As per the current provision, while an army man's wife is entitled to be enrolled as a service voter, an army woman officer's husband is not. The new bill may change this.
- The poll panel had asked the law ministry earlier to replace the term 'wife' with 'spouse' in the provision related to service voters in the **Representation of the People Act**.

Multiple cutoff dates for enrollment of youth

- The newly proposed amendments to the Representation of the People Act include allowing the youth to enroll as voters on four different dates every year.
- The **Election Commission of India (ECI)** has been pushing for multiple cut-off dates to allow more eligible voters to register.
- Currently, only the **youth turning 18 on or before January 1** of every year are allowed to be registered as voters.
- So if an election is held in a particular year, only an individual who turned 18 years on or before January 1

of that year is eligible to be enrolled in the voters' list.

- **The EC had contested that the January 1 cut-off date** deprives several youth from participating in the electoral exercise held in a particular year.
- The law ministry had recently informed a parliamentary panel that it is proposing to amend section 14(b) of the Representation of the People Act to insert four qualifying dates for **voter registration-January 1, April 1, July 1 and October 1 of every year.**

Linking of electoral roll with Aadhaar

- In March 2020, the then **law minister Ravi Shankar Prasad** had informed the Lok Sabha that the ECI has proposed linking of electoral roll with Aadhaar to curb the menace of multiple enrolments of the same person at different places.
- To enable this, amendments will be required to the electoral laws. The election panel has reportedly taken several measures to ensure the security and safety of the electoral roll data platform.
- This would not mean that the electoral database system will enter the **Aadhaar ecosystem**. The system will only be used for authentication purposes.
- **As per ECI's proposal sent in August 2019**, the electoral law should be amended to empower electoral registration officers to seek Aadhaar number of existing voters and those enrolling themselves in the voters' list.
- The poll panel has only proposed to link Aadhaar with electoral data to check multiple entries in electoral rolls and make them error-free.

Empower ECI to take over any premise for Elections

- The bill cleared by the cabinet also includes another proposal that allows the Election Commission the powers to take over any premise for the conduct of elections.
- This comes after objections were raised over ECI's takeover of certain schools during the period of elections.

Representation of the People Act, 1951

- The **Representation of the People Act, 1951** is an act of the Indian Parliament that provides for the conduct of election of both the Houses of Parliament and Houses of the Legislature of each State.
- The act includes provisions for qualification and disqualification for **membership of the two Houses along with corrupt practices** and other offences in connection with such elections.
- The act was introduced in the Parliament **by the then law minister Dr. B.R. Ambedkar** and was enacted by the parliament under Article 327 of the Indian Constitution, just before the first general election.

#CONSENT OF STATES FOR CBI INVESTIGATIONS

Recently, a **Supreme Court** bench has referred a case, in which the **CBI (Central Bureau of Investigation)** had filed an affidavit on the withdrawal of 'general consent' to the CBI by several States, for consideration of the Chief Justice of India.

**Central Bureau of Investigation (CBI)**

- The CBI was **set up in 1963** by a resolution of the **Ministry of Home Affairs**.
- Now, the CBI comes under the administrative control of the **Department of Personnel and Training (DoPT)** of the **Ministry of Personnel, Public Grievances and Pensions**.
- The establishment of the CBI was recommended by the **Santhanam Committee on Prevention of Corruption (1962-1964)**.
- The CBI is **not a statutory body**. It derives its powers from the **Delhi Special Police Establishment Act, 1946**.
- The CBI is the **main investigating agency of the Central Government**.
- It also provides assistance to the **Central Vigilance Commission** and **Lokpal**.
- It is also the nodal police agency in India which coordinates investigations on behalf of **Interpol Member countries**.

Background:

- **Withdrawal of Consent:** Eight States have withdrawn consent to the CBI for launching investigations in their territory.
- **Eight States** — West Bengal, Maharashtra, Kerala, Punjab, Rajasthan, Jharkhand, Chhattisgarh and Mizoram have withdrawn consent to the CBI for launching investigations in their territory.
- **Argument of CBI:** According to the CBI, such widespread withdrawal of consent is **rendering it redundant with regard to investigation of corruption charges against Central employees** and undertakings working within the territorial jurisdiction of various States.
- While the States' responses were primarily an **act of politico-legal ring-fencing** against the politics of the Central Government employing its agencies, the withdrawal of general consent by a number of States **has left the CBI handicapped**.

About the Consent Given by State Government:

- **Legal and Constitutional Basis:** According to **Section 6** of the **Delhi Special Police Establishment Act of 1946** under which the CBI functions, the State's consent is required to extend CBI investigation beyond Union Territories.
- The legal foundation of the CBI has been construed to be based on **Entry 80** of the **Union List** which provides for the extension of powers of the police force belonging to one State to any area in another State but not without its permission.
- "Police" is Entry 2 in the **State List** under the **Seventh Schedule** of the Constitution.

Types of Consent:

- There are **two types of consent** for a probe by the CBI.
- **General Consent:** When a state gives a general consent (Section 6 of the Delhi Special Police Establishment Act) to the CBI for probing a case, **the agency is not required to seek fresh permission every time** it enters that state in connection with investigation or for every case.
- A general consent is given to facilitate that seamless investigation in a case of corruption or violence.
- **Specific Consent:** When a general consent is withdrawn, CBI **needs to seek case-wise consent** for investigation from the concerned state government.
- If specific consent is not granted, the CBI officials will not have the power of police personnel when they enter that state.
- This hurdle impedes seamless investigation by the CBI.

SC Judgement:

- In the **Advance Insurance Co. Ltd case, 1970**, a Constitution Bench held that the definition of "State", as contained in **The General Clauses Act**, includes Union Territories as well.
- Hence the CBI, being a force constituted for Union Territories as recognised under the Delhi Special Police Establishment Act of 1946, **can conduct investigation into the territories of the States only with their consent**.
- **Impact on Pending Investigation:** The withdrawal of general consent does not affect pending investigation (**KaziLendhupDorji v. CBI, 1994**) or the cases registered in another State in relation to which investigation leads into the territory of the State which has withdrawn general consent, **nor does the withdrawal circumscribe the power of the jurisdictional High Court to order a CBI investigation**.

#RIGHT TO BE FORGOTTEN UNDER RIGHT TO PRIVACY

Recently, the Union Government informed the Delhi High Court that the international legal concept of the **Right to Be Forgotten** is evolving in India and **it comes under the Right to Privacy**.

- As per **Supreme Court** Judgement the Right to privacy includes the **Right to Be Forgotten (RTBF)** and the right to be left alone.
- **Right to Privacy:** In **Puttaswamy v. Union of India case, 2017**, the **Right to Privacy** was declared a fundamental right by the Supreme Court.
- Right to privacy is protected as **an intrinsic part of the right to life and personal liberty under Article 21** and as a part of the freedoms guaranteed by Part III of the Constitution.



Right to be Forgotten:

- It is the **right to have publicly available personal information removed from the internet, search, databases, websites or any other public platforms**, once the personal information in question is no longer necessary, or relevant.
- The RTBF gained **importance after the 2014 decision of the Court of Justice of the European Union ("CJEU")** in the Google Spain case.
- In the Indian context, the Supreme Court in **Puttaswamy v. Union of India, 2017** noted that the RTBF was a part of the broader right of privacy.
- The RTBF emerges from the right to privacy **under Article 21 and partly from the right to dignity under Article 21.**
- **Right to be Left Alone:** It doesn't mean that one is withdrawing from society. It is an expectation that society will not interfere in the choices made by the person so long as they do not cause harm to others.

Issues Associated with RTBF:

- **Privacy vs. Information:** The existence of RTBF in a given situation depends on **its balancing with other conflicting rights such as the right to free expression** or other publication rights.
- For example, a person may want to de-link information about his criminal records and make it difficult for people to access certain journalistic reports when they google him.
- This brings the person's right to be left alone, derived from Article 21, directly in **conflict with the rights of the media to report on issues, flowing from Article 19.**
- **Enforceability against Private Individuals:** The RTBF will normally be **claimed against a private party** (a media or news website).
- This raises the **question of whether fundamental rights can be enforced against the private individual**, which is generally enforceable against the state.
- Only Article 15(2), Article 17 and **Article 23** provides protection against a private act of a private party that is challenged based on its violation of the Constitution.
- **Ambiguous Judgments:** In recent years, without a data protection law to codify RTBF, **there are some inconsistent and peculiar adjudications** of the right by various high courts.
- Courts in India have repeatedly **either accepted or rejected the application of RTBF** while completely ignoring the wider constitutional questions associated with it.

Government Steps to Protect Privacy

- **Personal Data Protection Bill 2019:** To provide for **protection of privacy of individuals relating to their Personal Data** and to establish a Data Protection Authority of India for the said purposes and the matters concerning the personal data of an individual.
- Framed on the recommendations of **B N Srikrishna Committee (2018).**
- **Information Technology Act, 2000:** Provides for **safeguard against certain breaches in relation to data from computer systems.** It contains provisions to prevent the unauthorized use of computers, computer systems and data stored therein.

#WHAT IS ANTRIX-DEVAS DEAL?

- The **Supreme Court upheld the September 2021 NCLAT** order on 17 January 2022 to wind up Devas on a petition filed by Antrix Corporation Ltd and dismissed the appeal filed by Devas Multimedia and its shareholder Devas Employees Mauritius Pvt Ltd.
- Devas is a multi-media company. It offers satellite-based services. **Antrix is an Indian Government owned company.** It is the commercial arm of ISRO. That is, ISRO launches satellites and provides technological assistance for private firms through Antrix. It is operated by Department of Space.

Antrix – Devas Deal

- In 2005, **Antrix and Devas** signed an agreement. Under the agreement, Devas was to provide multimedia services to mobile users.
- The services were to be provided **using S – band satellite leased from Antrix.**
- In 2011, this agreement was cancelled by the UPA government. **UPA government wanted the S – band for national security.**
- Devas went to the International Chambers of Commerce and also to two **BIT (Bilateral Investment Treaty) arbitrations.** Devas also filed a case in Permanent Court of Arbitration. The PCA ruled that Antrix has to pay 1.6 billion USD as compensation.

Why did India cancel the deal?

- The scandal first came to light when in 2011; the news reported that there **were some irregularities in the agreement between Antrix and Devas.**
- They reported the findings of a draft audit report and pointed out discrepancies including financial mismanagement, conflict of interest, non-compliance of rules, and favoritism.
- This revelation came at the heel of the **2G spectrum scam which was condemned for the high level of corruption.**

How can a Canadian court order the attachment of Indian assets?

- **State immunity — a well-established principle of international law —** shields a state and its property against legal proceedings in the courts of other countries.
- **This covers immunity from both jurisdiction and execution.**

International Telecommunication Union is the **United Nations specialized agency** for information and communication technologies – ICTs. It is the oldest among all the 15 specialized agencies of the UN. **Founded in 1865** to facilitate **international connectivity** in communications networks, it allocates global radio spectrum and satellite orbits, develops the technical standards that ensure networks and technologies seamlessly interconnect, and strives to improve access to ICTs to underserved communities worldwide. **Based in Geneva, Switzerland,** it is also a member of the **United Nations Development Group** and has 12 regional and area offices in the world. Its membership includes **193 Member States and around 800 public and private sector companies and academic institutions** as well as international and regional telecommunication entities. Recently, India got elected as a member of **ITU Council for another 4-year term - from 2019 to 2022.** India has remained a regular member since 1952.

- However, there is no international legal instrument in force dealing with **state immunity in the municipal legal systems of different countries, which has created an international void.**
- Consequently, countries have filled this void through their national legislations and domestic judicial practices on state immunity.
- Typically, prominent jurisdictions such as Canada follow the concept of restrictive immunity (a foreign State is immune only for sovereign functions) and not absolute immunity.

What is S-band Spectrum?

- The S-band spectrum, which is part of the **Devas-ISRO deal**, is **extremely valuable for mobile broadband services**, in terms of usage as well as money.
- The frequency, also known as **2.5 Ghz band**, is globally used for providing mobile broadband services using **fourth generation technologies such as WiMax and Long Term Evolution (LTE).**
- This frequency band is unique because it has a substantial amount of spectrum (190 MHz) that can be put to use for mobile services.

Antrix Corporation Limited

- Antrix Corporation Limited (ACL), Bengaluru is a **wholly owned Government of India Company** under the **administrative control of the Department of Space.**
- It was **incorporated as a private limited company owned by Government of India** in September 1992.
- It is a **marketing arm of ISRO** for promotion and **commercial exploitation of space products, technical consultancy services** and transfer of technologies developed by ISRO.

National Company Law Appellate Tribunal

- The NCLAT was constituted under **Section 410 of the Companies Act, 2013** to hear appeals against the **orders of the National Company Law Tribunal (NCLT).**
- NCLT is a quasi-judicial body that adjudicates issues relating to companies.
- It is also the appellate tribunal for orders passed by the **NCLT(s) under Section 61 of the Insolvency and Bankruptcy Code (IBC), 2016**, and for orders passed by the **Insolvency and Bankruptcy Board of India (IBBI) under Sections 202 and 211 of the IBC.**
- Any person aggrieved by any order of the NCLAT may file an **appeal to the Supreme Court.**

RELATED TOPICS IN NEWS**PM MODI LAUNCHED INDIAN SPACE ASSOCIATION**

- ISpA aspires to be the **collective voice of the Indian Space industry**. ISpA will be **represented by leading domestic and global corporations** that have advanced capabilities in space and satellite technologies.
- ISpA will undertake **Policy Advocacy** and engage with all stakeholders in the Indian Space domain, including the Government and its Agencies, to make India self-reliant, technologically advanced and a leading player in the space arena.
- ISpA will also **work towards building global linkages** for the Indian space industry to **bring in critical technology and investments** into the country to create more high skill jobs.

Other Related Organisations:

- **IN-SPACE: Indian National Space Promotion and Authorization Centre (IN-SPACe)** was approved in **2020** to provide a level playing field for private companies to use Indian space infrastructure.
- **NSIL: In the 2019 Budget**, the government had announced the setting up of a **New Space India Limited (NSIL)**, a public sector company that would serve as a marketing arm of **ISRO (Indian Space Research Organisation)**.
- Its main purpose is to market the technologies developed by ISRO and bring it more clients that need space-based services.
- That role, incidentally, was **already being performed by Antrix Corporation**, another public sector undertaking working under the Department of Space, and which still exists.

➤ **TOPICS TO BE READ IN CONNECTION: CAIRN ENERGY V. GOVT. OF INDIA DISPUTE**

➤ **VODAFONE ARBITRATION CASE**

➤ **RECENT MISSIONS OF ISRO**

SC VERDICT ON INHERITANCE OF DAUGHTERS

- The **Supreme Court of India**, in a significant verdict announced **that the daughters of a male Hindu, dying intestate, will be entitled to inherit the self-acquired as well as other properties obtained in the partition by the father.**
- In this case, the daughters will **get preference over other collateral members of the family.**
- The latest Supreme Court judgement deals with the property rights of Hindu women and widows under the Hindu Succession Act. **The judgment came on an appeal against the Madras High Court Verdict.**



- The Supreme Court bench was dealing with the legal issue **concerning the right of the daughter to**

inherit the self-acquired property of her father, in the absence of any other legal heir.

Daughters Inheritance:

- It ruled that the **property of a man who had died** without executing a will and is **survived only by a daughter will devolve upon the daughter** and not others such as his brother.
- Earlier in 2020, the SC has already **expanded the Hindu women's right** to be the coparcener (joint legal heir) and inherit ancestral property on terms equal to male heirs.
- SC also looked into **Vyavastha Chandrika**, a digest of Hindu Law by Shyama Charan Sarkar Vidya Bhushan which quoted 'Vrihaspati' as saying 'the **wife is pronounced successor to the wealth of her husband**, in her default, the daughter. As a son, so does the daughter of a man proceed from his several limbs.
- **Old Law:** Right of a widow or daughter to inherit the self-acquired property or share received in partition of a coparcenary property of a Hindu male dying intestate is **well recognised not only under the old customary Hindu Law**.
- If a property of a male Hindu dying intestate is a self-acquired property or obtained in partition of a coparcenary or a family property, the same would devolve by inheritance and not by survivorship, and a **daughter of such a male Hindu would be entitled to inherit such property** in preference to other collaterals".
- **Property after Woman's Death:** The court also said that if a female Hindu dies intestate without leaving any issue, then the **property inherited by her from her father or mother would go to the heirs of her father** whereas the property inherited from her husband or father-in-law would go to the heirs of the husband.
- In case a **female Hindu dies leaving behind her husband or any issue, then Section 15(1)(a) of the HSA 1956 will come into operation** and the properties left behind including the properties which she inherited from her parents would devolve simultaneously upon her husband and her issues.

What if a female Hindu dies without leaving a will?

- In that case, as per the court, the property she inherited from her father or mother will go to the heirs of her father while the property that she inherited from her husband or father-in-law will go to the heirs of her husband.
- The basic aim is to ensure that the inherited property of a **female Hindu dying issueless and intestate, goes back to the source**.

Hindu Succession Act, 1956:

- The **Mitakshara school of Hindu law codified as the Hindu Succession Act, 1956** governed succession and inheritance of property but only recognised males as legal heirs.
- It applied to everyone who is not a **Muslim, Christian, Parsi or Jew by religion. Buddhists, Sikhs, Jains and followers of Arya Samaj, Brahmo Samaj**, are also considered Hindus for this law.
- In a Hindu Undivided Family, **several legal heirs through generations can exist jointly**.
- Traditionally, only male descendants of a common ancestor along with their mothers, wives and unmarried daughters are considered a joint Hindu family. The legal heirs hold the family property jointly.

Hindu Succession (Amendment) Act, 2005:

- The 1956 Act was amended in September 2005 and **women were recognised as coparceners for property partitions arising from 2005.**
- Section 6 of the Act was amended to make a daughter of a coparcener also a coparcener by birth "in her own right in the same manner as the son".
- It **also gave the daughter the same rights and liabilities** "in the coparcenary property as she would have had if she had been a son".
- The law **applies to ancestral property and to intestate succession** in personal property, where succession happens as per law and not through a will.
- ***Different benches of the Supreme Court and High Courts had taken conflicting views on the issue.***
For Example:
 - In **Prakash V/S Phoolwati (2015)** case, a two-judge Bench headed by Justice A K Goel held that the benefit of the 2005 amendment could be granted only to "living daughters of living coparceners" as on September 9, 2005 (the date when the amendment came into force).
 - However **In February 2018, contrary to the 2015 ruling, a two-judge Bench headed by Justice A K Sikri** held that the share of a father who died in 2001 will also pass to his daughters as coparceners during the partition of the property as per the 2005 law.
 - Then in April that year, yet **another two judge bench, headed by Justice RK Agrawal, reiterated the position taken in 2015.** These conflicting views by benches of equal strength led to a reference to a three judge Bench in the current case.

#SPECIAL MARRIAGE ACT 1954 CHALLENGED IN SC

Recently, the law that governs inter-faith marriages in the country, the **Special Marriage Act (SMA), 1954**, is being challenged in the Supreme Court.

- In 2021, petitions were filed to strike down several of its provisions.

The Special Marriage Act (SMA), 1954

- It is the legislation made to validate and register interreligious and inter-caste marriages in India.
- It allows two individuals to **solemnise their marriage through a civil contract.**
- No religious formalities are needed to be carried out under the Act.
- This Act includes **Hindus, Muslims, Christians, Sikhs, Jains, and Buddhists marriages.**
- This Act applies not only to Indian citizens who belong to different castes and religions but also to Indian nationals who live abroad.



About the Current Petition

- **Section 5** of the SMA requires a **person marrying** under this law to give a notice of intended marriage.
- **Section 6(2)** says it should be **affixed at a conspicuous place at the office of the marriage officer.**

- **Section 7(1)** allows any person to object to the marriage within 30 days of the publication of the notice, failing which a marriage can be solemnised under **Section 7(2)**.
- Due to these provisions breaching personal liberties, several inter-faith couples approached the Court, **challenging Sections 6 and 7 of the Act**.

About Interfaith Marriages:

- The matrimonial relationship developed between two individuals having different religious faiths.
- Although marrying into a different religion is a matter of choice for an adult, there are certain issues regarding the same.

Issues with Interfaith Marriages:

- Interfaith marriages are believed to be a **forced conversion of one of the spouses (mostly women)**.
- As per the Muslim Personal law, in order to get married to a non-Muslim, **conversion of religion is the only way**.
- Hindu religion allows **only monogamy** and those **who want to marry a second time take another course**.
- There is no provision regarding **caste determination of children born out of such marriages**.
- The Special Marriage Act, 1954 is **not compatible with backwardness of the society**.
- There is debate over the validity of **Article 226 in the context of annulling the interfaith marriage by the high court**.
- **Article 226:** Power of high courts to issue certain **writs**.

Asymmetrical With Various Supreme Court's Judgements:

- The Supreme Court in **Shafin Jahan v Ashok KM (2018)**, has upheld the right to marry a person of one's choice as a part of Article 21.
- According to the Supreme Court, the Constitution protects the ability of each individual to pursue a way of life or faith to which she or he seeks to adhere.
- Therefore, the right to marry a person of one's choice is integral to Article 21 of the Constitution.
- Further, Supreme Court in **K.S. Puttaswamy v UOI (2017)** judgement held that **"right of choice of a family life" as a fundamental right**.
- **Patriarchal Roots:** This shows the law has deep-seated patriarchal roots, wherein women are infantilised, placed under parental and community control, and denied the right to take life decisions, should those decisions not be agreeable to their guardians.

#RELATED: WOMEN'S LEGAL MARRIAGE AGE RAISED TO 21

- Union Cabinet on December 15, 2021 cleared a bill to raise women's legal marriage age from 18 to 21 years after reviewing a proposal from a specially constituted task force.
- The task force had made its recommendations after holding extensive consultations with experts and young adults, especially young women.

- The **present legal marriageable age for women is 18 years and for men it is 21 years**. The decision to raise the marriageable age of women will bring the marriageable age of men and women at par.



- Prime Minister Narendra Modi had first announced this plan during his Independence Day address in 2020.
- As per reports, following the cabinet's approval of the proposal of raising the marriageable age of women, the centre is expected to introduce an amendment to the **Prohibition of Child Marriage Act, 2006** and consequently bring amendments to the Special Marriage Act and personal laws such as the **Hindu Marriage Act, 1955**.

Jaya Jaitly Task Force

- The **Union Ministry of Women and Child Development** had set up the special task force in June 2020 to examine various matters pertaining to the age of motherhood, lowering Maternal Mortality rates, improving nutritional and other related issues.
- After reviewing all matters, the **task force submitted its recommendations to Niti Aayog**. The task force had received some objections from certain quarters.
- **Headed by Jaya Jaitly**, the task force comprises Niti Aayog member Dr. V K Paul and Secretaries of the Women and Child Department, Health and Education ministries and of the Legislative Department.
- The task force was constituted to look at the feasibility of increasing the marriage age and its implication on women and child health and how to increase access to education for women.

Task Force recommendations

- Besides raising the marriageable age of women to 21 years, the **task force has recommended sex education to be formalised and introduced in the school curriculum**.
- It has also recommended training of women in polytechnic institutes, skills and business training and livelihood enhancement as a means to ensure that an increase in marriageable age can be implemented.

Why was the task force formed?

- The government decided to form the task force to re-examine marriage age for women due to various reasons including to reduce Maternal Mortality Rate, infant mortality rate and improve overall health and mental wellbeing of women and their children and for the **empowerment of women who get cut off**

from education and livelihood after early marriage.

DEMAND OF PUDUCHERRY FOR STATEHOOD

Recently, the Chief Minister of Puducherry has demanded Statehood for the **Union Territory (UT) of Puducherry**.

- The demand for Statehood is a long pending issue for Puducherry making it unable to exercise **any powers for creating employment potential** by inviting more industries to Puducherry and also **creating infrastructure facilities for tourism**.



Union Territory

- **Background:** UT refers to those federal territories **that are too small to be independent or are too different** (economically, culturally and geographically) to be merged with the surrounding states or are financially weak or are politically unstable.
- Due to these reasons, they **couldn't survive as separate administrative units and needed to be administered by the Union Government**.
- UTs are administered by the President. In the UTs **Lieutenant Governors are appointed by the President of India** as their administrators.
- However, Puducherry, Jammu and Kashmir and Delhi are the exception in this regard and have an elected legislature and government due to the status of partial statehood.
- At present, **India has 8 UTs**-- Delhi, Andaman and Nicobar, Chandigarh, Dadra and Nagar Haveli and Daman and Diu, Jammu and Kashmir, Ladakh, Lakshadweep, and Puducherry.
- When the Constitution of India was adopted **in 1949, the Indian federal structure** included:
 - **Part A:** Former British India provinces that had a Governor and a legislature.
 - **Part B:** The former Princely States that were governed by a Rajpramukh.
 - **Part C:** Chief Commissioners' provinces and some princely states that were governed by Chief Commissioner.
 - **Part D:** Territory of Andaman and Nicobar Islands that was governed by a Lieutenant Governor who was appointed by the Central Government.
- After the **States Reorganisation Act of 1956**, Part C and Part D states were combined into a single category of '**Union Territory**'. The concept of the UT was added by the **Constitution (Seventh Amendment) Act, 1956**.

Issues Arising Due to Creation of New States:

- Different statehood may **lead to the hegemony of the dominant community/ caste/ tribe** over their power structures.
- This can lead to **emergence of intra-regional rivalries** among the sub-regions.
- The creation of new states may also lead to certain negative political consequences like **a small group of legislators could make or break a government at will**.
- There is also a possibility of increase in the **inter-State water, power and boundary disputes**.

- The division of states **would require huge funds for building new capitals and maintaining a large number of administrators** as was the case in the **division of Andhra Pradesh and Telangana**.
- Creation of smaller states only transfers power from the old state capital to new state capital **without empowering already existing institutions** like Gram Panchayat, District Collector, etc. rather diffusion of development in the backward areas of the states.

Constitutional Provisions:

- The Indian constitution **empowers the Union government to create new states out of existing states** or to merge one state with another. This process is called reorganisation of the states.
- As per **Article 2** of the Indian Constitution, Parliament may by law admit into the Union, or establish, new States on such terms and conditions.
- **As per Article 3** of the Indian Constitution, the **Union Government has the power to form a State, increase or decrease the size** of any State, and alter the boundaries or name of any State.

Puducherry

- Puducherry city is capital of Puducherry UT in southeastern India.
- **UT was formed in 1962 out of the four former colonies** of French India:
- **Pondicherry** (now Puducherry) and **Karaikal** along India's southeastern Coromandel Coast, **Yanam**, farther north along the eastern coast, and **Mahe**, lying on the western Malabar Coast, surrounded by Kerala state.
- It originated as a **French trade centre in 1674**, when it was purchased from a local ruler.
- The colony of Pondicherry was **the scene of frequent fighting between the French and Dutch in the late 17th century**, and it was occupied several times by British troops. However, it remained a **French colonial possession** until it was transferred to India in 1962.

#RELATED: DEMAND FOR INCLUDING LADAKH UNDER 6TH SCHEDULE

Recently, a demand has been raised in **Parliament** to include the **Union Territory (UT) of Ladakh** in the **Sixth Schedule of the Constitution** to safeguard land, employment, and cultural identity of the local population.

- The **Jammu and Kashmir Reorganisation Act, 2019** was introduced to bifurcate the State into two separate **union territories of Jammu and Kashmir (with legislature), and Ladakh (without legislature)**.



Need of Inclusion in Sixth Schedule:

- The **administration of the UT of Ladakh region is now completely in the hands of bureaucrats**. The government now looks even more distant than Srinagar.
- The **changed domicile policy** in Jammu and Kashmir has raised fears in the region about its own land, employment, demography, and cultural identity.
- The UT has two Hill councils in Leh and Kargil, but neither is under the Sixth Schedule.

- Their **powers are limited to collection** of some local taxes such as parking fees and allotment and use of land vested by the Centre.

NCST Recommendation:

- The **National Commission for Scheduled Tribes (NCST)** has recommended that the **Union Territory (UT) of Ladakh be included in the Sixth Schedule of the Constitution**.
- **NCST, a constitutional body** to safeguard socio-cultural rights of Scheduled Tribes, was entrusted with the responsibility of examining the status of tribals in Ladakh, by the Centre.
- **If included, Ladakh will be the only UT in the Sixth Schedule.** Also, bestowing such a status to Ladakh would **require a constitutional amendment**.

Sixth Schedule

- **Article 244:** The Sixth Schedule under **Article 244** provides for the formation of autonomous administrative divisions — **Autonomous District Councils (ADCs)** — that have some legislative, judicial, and administrative autonomy within a state.
- The **Sixth Schedule** contains **special provisions for the administration of tribal areas** in the **four north-eastern** states of **Assam, Meghalaya, Tripura and Mizoram**.
- **Autonomous Districts:** The tribal areas in these four states have been constituted as autonomous districts. The **governor is empowered to organise and re-organise the autonomous districts**.
- The acts of Parliament or the state legislature do not apply to autonomous districts or apply with specified modifications and exceptions.
- The power of direction, in this regard, lies **either with the President or Governor**.
- **District Council:** Each autonomous district has a district council **consisting of 30 members, of whom four are nominated by the Governor** and the remaining 26 are elected on the basis of adult franchise.
- The elected members hold office for a term of five years (unless the council is dissolved earlier) and nominated members hold office during the pleasure of the governor.
- Each autonomous region also has a separate regional council.
- **Powers of the Council:** The district and regional councils administer the areas under their jurisdiction.
- They can make **laws on certain specified matters like land, forests, canal water, shifting cultivation**, village administration, and the inheritance of property, marriage and divorce, social customs and so on. But **all such laws require the assent of the Governor**.
- They can **constitute** village councils or **courts for trial of suits and cases between the tribes**. They hear appeals from them. The jurisdiction of the high court over these suits and cases is specified by the governor.
- The district council **can establish, construct or manage** primary schools, dispensaries, markets, ferries, fisheries, roads and so on in the district.
- They are empowered to **assess and collect land revenue** and to impose certain specified taxes.

#EXTENSION OF AFSPA IN NAGALAND

The Konyak Civil Society Organizations, the guardian umbrella of organizations of the Konyaks, has slammed the extension of the **Armed Forces (Special Powers) Act of 1958 (AFSPA)**.

- The Armed Forces (Special Powers) Act of 1958 has been extended in Nagaland for six months from 30th December 2021.



Konyak

- **About:** The Konyak are the **largest tribe**, followed by Ao, Tangkhul, Sema, and Angami **in Nagaland**.
- Other Naga tribes include Lotha, Sangtam, Phom, Chang, Khiemnungam, Yimchungre, Zeliang, Chakhesang (Chokri), and Rengma.
- The term 'Konyak' is believed to have been **derived from the words 'Whao' meaning 'head' and 'Nyak' meaning 'black'** translating to 'men with black hair'.
- They can be grouped into **two groups, namely 'Thendu'**, which means the 'Tattooed Face' and **'Thenthoo'**, meaning the 'White face'.

Habitat:

- Reside mostly in the Mon district also known as **'The Land of The Anghs'**, they are also found in some districts of Arunachal Pradesh, Assam and Myanmar.
- In **Arunachal Pradesh**, they are known as the **Wanchos** ('Wancho' is a synonymous term for 'Konyak').
- Ethnically, culturally, and linguistically the Noctes and Tangsa of the same neighbouring state of Arunachal Pradesh, are also closely related to the Konyaks.

Armed Forces (Special Powers) Act, 1958:

- **Background:** A reincarnation of the British-era legislation that was enacted to quell the protests during the **Quit India movement**, the AFSPA was issued by way of four ordinances in 1947.
- The ordinances were **replaced by an Act in 1948** and the present law effective in the Northeast was introduced in Parliament in 1958 by the then Home Minister, G.B. Pant.
- It was known initially as the **Armed Forces (Assam and Manipur) Special Powers Act, 1958**.
- After the States of Arunachal Pradesh, Meghalaya, Mizoram, and Nagaland came into being, the Act was adapted to apply to these States as well.

About:

- The ASFPA gives **unfettered powers to the armed forces and the Central armed police forces** deployed in "disturbed areas" to kill anyone acting in contravention of law and arrest and search any premises without a warrant and with protection from prosecution and legal suits.
- The law first came into **effect in 1958 to deal with the uprising in the Naga Hills**, followed by the insurgency in Assam.

Disturbed Areas:

- The Act was **amended in 1972** and the **powers to declare an area as “disturbed”** were conferred concurrently upon the Central government along with the States.
- Currently, the **Union Home Ministry issues periodic “disturbed area”** notification to extend AFSPA only for Nagaland and Arunachal Pradesh.
- The notification for **Manipur and Assam is issued by the State governments.**
- Tripura revoked the Act in 2015 and Meghalaya was under AFSPA for 27 years, until it was revoked by the MHA from 1st April 2018.
- The Act was implemented in a 20-km area along the border with Assam.
- Jammu and Kashmir has a separate **J&K Armed Forces (Special Powers) Act, 1990.**

Controversy around the Act:

- **Human Rights Violations:** The law **empowers security personnel, down to non-commissioned officers**, to use force and shoot “even to the causing of death” if they are convinced that it is necessary to do so for the “maintenance of public order”.
- It also **grants soldiers executive powers** to enter premises, search, and arrest without a warrant.
- The exercise of these extraordinary powers by armed forces has **often led to allegations of fake encounters and other human rights violations** by security forces in disturbed areas while questioning the indefinite imposition of AFSPA in certain states, such as Nagaland and J&K.

Recommendations of Jeevan Reddy Committee:

- In November 2004, the Central government appointed a five-member committee headed by Justice B P Jeevan Reddy to review the provisions of the act in the northeastern states.
- The committee recommended that:
- **AFSPA should be repealed** and appropriate provisions should be inserted in the **Unlawful Activities (Prevention) Act, 1967**
- The Unlawful Activities Act should be modified to clearly specify the powers of the armed forces and paramilitary forces and Grievance cells should be set up in each district where the armed forces are deployed.
- **Second ARC Recommendation:** The 5th report of the Second Administrative Reforms Commission (ARC) on public order has also **recommended the repeal of the AFSPA**. However, these recommendations **have not been implemented.**
- **Supreme Court Views on the Act:** The Supreme Court has **upheld the constitutionality of AFSPA in a 1998 judgment** (*Naga People's Movement of Human Rights v. Union of India*).
 - In this judgment, the Supreme Court held that
 - A suo-motu declaration can be made by the Central government, however, it is desirable that the state government should be consulted by the central government before making the declaration.
 - The declaration has to be for a limited duration and there should be a periodic review of the declaration 6 months have expired.

- While exercising the powers conferred upon him by AFSPA, the authorized officer should use minimal force necessary for effective action.

#RIGHT TO PRIVACY

Recently, a **Judge of the Madras High Court** has said that a recent order passed by another judge of the same court, **mandating the installation of CCTV cameras inside spas [massage and therapy centres]**, appears to run counter to the Supreme Court's landmark judgement in **K.S. Puttaswamy case (2017)**.

- In this case, the Supreme Court declared that the **right to life and personal liberty** guaranteed in **Article 21** also implicitly includes a right to privacy.



About:

- **Underlying Values:** This right to privacy is seen as possessing:
- **Inherent value:** It is important for every person's basic dignity.
- **Instrumental value:** It furthers a person's ability to live life free of interference.
- **Forms of Right to Privacy:** The privacy as guaranteed in Article 21 takes several different forms. It includes:
 - A right to bodily autonomy,
 - A right to informational privacy,
 - A right to a privacy of choice.
- **Right to Relax:** Suspicion that immoral activities are taking place in spas **cannot be a reason** enough to intrude into an individual's right to relax, for it intrinsically is part and parcel of his fundamental right to privacy.
- Thus, the installation of CCTV equipment inside premises such as a spa **would unquestionably go against a person's bodily autonomy**.
- These are inviolable spaces where the prying eye of the State cannot be allowed to enter.
- **Doctrine of Separation of Powers:** The reach of the fundamental rights cannot be curtailed by any judicial measure.
- It held that, though no right can be absolute, restrictions can be put in place only by the legislature or the executive.
- Apart from it, the Supreme Court alone can do so in exercise of its power under **Article 142**.

Right to Privacy

- Generally understood that privacy is synonymous with the **right to be let alone**.
- The Supreme Court described privacy and its importance in the landmark decision of *K.S. Puttaswamy v. Union of India* in 2017.
- The right to privacy is protected as an intrinsic part of the right to life and personal liberty under **Article 21** and as a part of the freedoms guaranteed by Part III of the Constitution.

- The Puttaswamy judgment holds that the right to privacy is protected as a fundamental constitutional right under **Articles 14, 19 and 21** of the Constitution of India.

#RELATED: RIGHT TO BE FORGOTTEN UNDER RIGHT TO PRIVACY

Recently, the Union Government informed the Delhi High Court that the international legal concept of the **Right to Be Forgotten** is evolving in India and **it comes under the Right to Privacy**.



- As per **Supreme Court** Judgement the Right to privacy includes the **Right to Be Forgotten (RTBF)** and the right to be left alone.
- **Right to Privacy:** In **Puttaswamy v. Union of India** case, 2017, the **Right to Privacy** was declared a fundamental right by the Supreme Court.
- Right to privacy is protected as an **intrinsic part of the right to life and personal liberty under Article 21** and as a part of the freedoms guaranteed by Part III of the Constitution.

Right to be Forgotten:

- It is the **right to have publicly available personal information removed from the internet, search, databases, websites or any other public platforms**, once the personal information in question is no longer necessary, or relevant.
- The RTBF gained **importance after the 2014 decision of the Court of Justice of the European Union ("CJEU")** in the Google Spain case.
- In the Indian context, the Supreme Court in **Puttaswamy v. Union of India, 2017** noted that the RTBF was a part of the broader right of privacy.
- The RTBF emerges from the right to privacy **under Article 21** and partly from the right to dignity under Article 21.
- **Right to be Left Alone:** It doesn't mean that one is withdrawing from society. It is an expectation that society will not interfere in the choices made by the person so long as they do not cause harm to others.

Issues Associated with RTBF:

- **Privacy vs. Information:** The existence of RTBF in a given situation depends on **its balancing with other conflicting rights such as the right to free expression** or other publication rights.
- For example, a person may want to de-link information about his criminal records and make it difficult for people to access certain journalistic reports when they google him.
- This brings the person's right to be left alone, derived from Article 21, directly in **conflict with the rights of the media to report on issues, flowing from Article 19**.
- **Enforceability against Private Individuals:** The RTBF will normally be **claimed against a private party** (a media or news website).
- This raises the **question of whether fundamental rights can be enforced against the private individual**, which is generally enforceable against the state.

- Only Article 15(2), Article 17 and **Article 23** provides protection against a private act of a private party that is challenged based on its violation of the Constitution.
- **Ambiguous Judgments:** In recent years, without a data protection law to codify RTBF, **there are some inconsistent and peculiar adjudications** of the right by various high courts.
- Courts in India have repeatedly **either accepted or rejected the application of RTBF** while completely ignoring the wider constitutional questions associated with it.

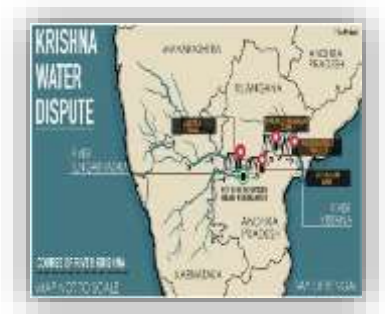
Government Steps to Protect Privacy

- **Personal Data Protection Bill 2019:** To provide for **protection of privacy of individuals relating to their Personal Data** and to establish a Data Protection Authority of India for the said purposes and the matters concerning the personal data of an individual.
- Framed on the recommendations of **B N Srikrishna Committee (2018)**.
- **Information Technology Act, 2000:** Provides for **safeguard against certain breaches in relation to data from computer systems**. It contains provisions to prevent the unauthorized use of computers, computer systems and data stored therein.

#KRISHNA WATER DISPUTE B/W FOUR STATES

Recently, two judges of the **Supreme Court** have **recused** themselves from hearing a matter related to the distribution of **Krishna water dispute** between **Andhra Pradesh, Telangana, Maharashtra and Karnataka**.

- They cited the reason that they **did not want to be the target of partiality** since the dispute is related to their home states.



Recusal of Judges

- It is the **act of abstaining from participation in an official action** such as a legal proceeding due to a **conflict of interest** of the presiding court official or administrative officer.
- When there is a **conflict of interest**, a judge can **withdraw from hearing** a case to prevent creating a perception that he carried a bias while deciding the case.
- There are **no formal rules governing recusals**, although several SC judgments have dealt with the issue.
- In **Ranjit Thakur v Union of India (1987)**, the SC held that the test of the likelihood of bias is the reasonableness of the apprehension in the mind of the party.
- The judge needs to look at the mind of the party before him, and decide that he is biased or not.

About:

- In 2021 Andhra Pradesh alleged that the Telangana government had deprived it of its legitimate share of water for drinking and irrigation purposes in an **“unconstitutional and illegal” manner**.
- The water of the **Srisailem reservoir**— which is the main storage for river water between the two states — has turned out to be a major warring point.

- Andhra Pradesh protested against **Telangana's use of the Srisailem reservoir water** for power generation.
- The Srisailem reservoir is constructed across the Krishna River in Andhra Pradesh. It is located in the **Nallamala hills**.
- It further contended that Telangana was refusing to follow decisions taken in the apex council constituted under the **Andhra Pradesh Reorganisation Act, 2014**, directions of **Krishna River Management Board (KRMB)** constituted under this Act and directions of the Centre.

Background:

- **Krishna Water Disputes Tribunal:** In 1969, the **Krishna Water Disputes Tribunal (KWDT)** was set up under the **Inter-State River Water Dispute Act, 1956**, and presented its report in 1973.
- At the same time, it was stipulated that the KWDT order may be reviewed or revised by a competent authority or tribunal any time after 31st May, 2000.
- **Second KWDT**
- The **second KWDT was instituted in 2004**. It delivered its report in 2010, which made allocations of the Krishna water at 65 % dependability and for surplus flows **as follows: 81 TMC for Maharashtra, 177 TMC for Karnataka, and 190 TMC for Andhra Pradesh**.

After the KWDT's 2010 report:

- Andhra Pradesh challenged it **through a Special Leave Petition** before the Supreme Court in 2011.
- In 2013, the KWDT issued a 'further report', which was again challenged by Andhra Pradesh in the Supreme Court in 2014.

Creation of Telangana:

- After the creation of Telangana, Andhra Pradesh has asked that **Telangana be included as a separate party at the KWDT** and that the allocation of Krishna waters be reworked **among four states, instead of three**.
- It is relying on **Section 89** of The Andhra Pradesh State Reorganisation Act, 2014.
- For the purposes of this section, it is **clarified that the project-specific awards already made by the Tribunal on or before the appointed day** shall be binding on the successor States.

Constitutional Provisions:

- **Article 262** of the Constitution provides for the adjudication of **inter-state water disputes**.
- Under this, Parliament may by law provide for the adjudication of any dispute or complaint with respect to the use, distribution and control of waters of any inter-state river and river valley.
- The Parliament has enacted the two laws, the **River Boards Act (1956)** and the **Inter-State Water Disputes Act (1956)**.
- The **River Boards Act provides** for the establishment of river boards by the Central government for the regulation and development of inter-state river and river valleys.

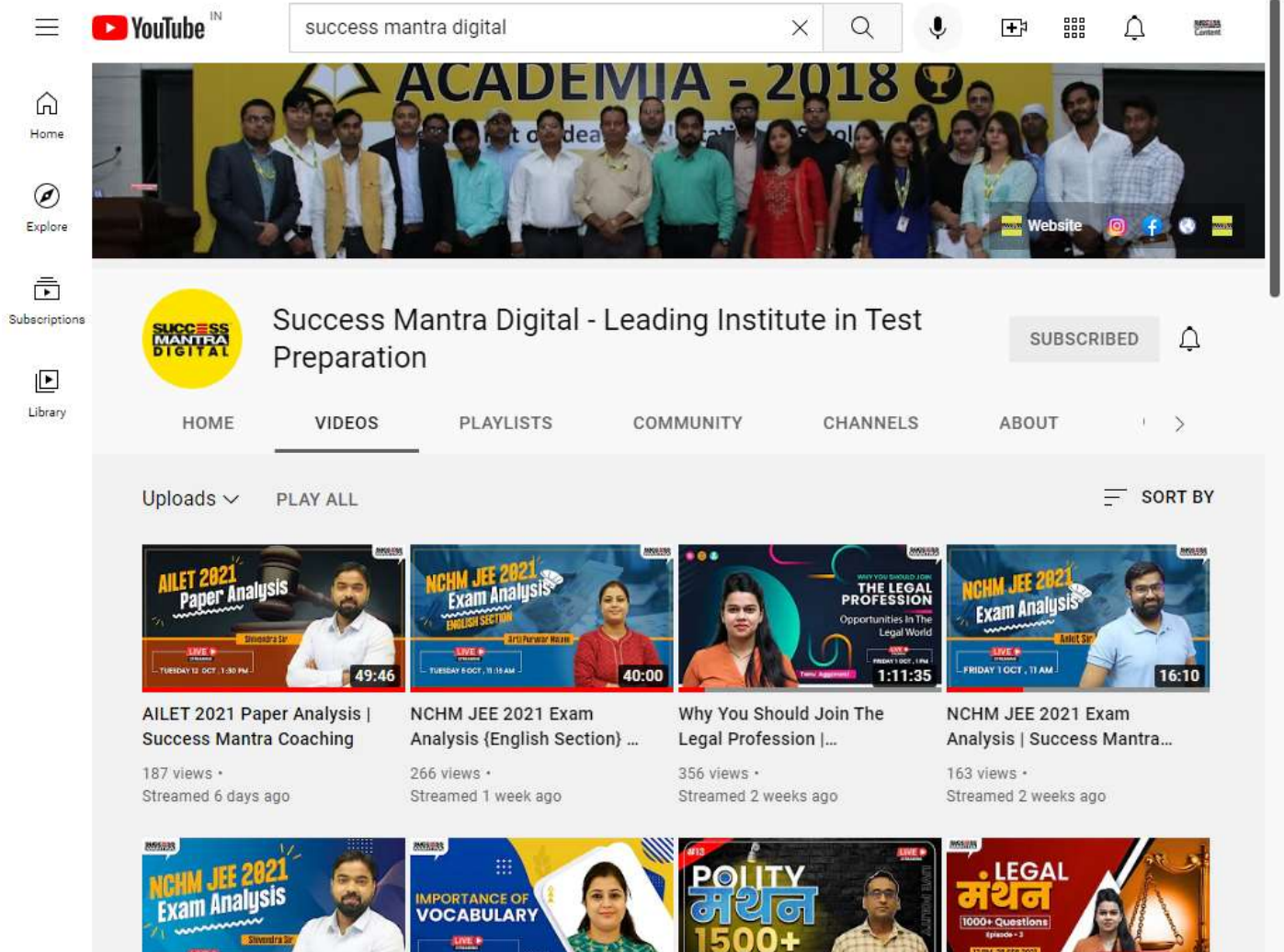
- **The Inter-State Water Disputes Act** empowers the Central government to set up an ad hoc tribunal for the adjudication of a dispute between two or more states in relation to the waters of an inter-state river or river valley.
- Neither the Supreme Court nor any other court is to have jurisdiction in respect of any water dispute which may be referred to **such a tribunal under this Act**.

Krishna River

- **Source:** It **originates near Mahabaleshwar** (Satara) in Maharashtra. It is the second biggest river in peninsular India after the Godavari River.
- **Drainage:** It runs from four states **Maharashtra** (303 km), North **Karnataka** (480 km) and the rest of its 1300 km journey in **Telangana** and **Andhra Pradesh** before it empties into the Bay of Bengal.
- **Tributaries:** Tungabhadra, Mallaprabha, Koyna, Bhima, Ghataprabha, Yerla, Warna, Dindi, Musi and Dudhganga.

Inter-State River Water Disputes (Amendment) Bill, 2019

- The Bill tries to reduce the time it takes to constitute a tribunal i.e. it creates a permanent infrastructure.
- Also, like most commercial disputes, a **pre-litigation dispute resolution process**, which is attempted for a period of 18 months with the central government playing the role of arbitrator is present. And if the issue is not resolved within that period, it gets referred to the tribunal as a dispute.
- The delay in the adjudication process is because of the appointment of the members i.e. judges of the Supreme Court and the High Court and the assessors. The Bill seeks to constitute a permanent tribunal, so there will be benches and **one bench would be able to look at more than one issue/dispute**. Hence, the process will be expedited.
- In the proposed Bill, some **timelines have also been fixed**.
- The Dispute Resolution Committee (DRC) will take one year extendable by six months to one and a half years.
- The main report will be prepared in two months, that means the entire deliberations and argumentation and all those will take two years extendable by one year, so a total of three years.
- And the clarification that is required has to be decided within one year extendable by six months.



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