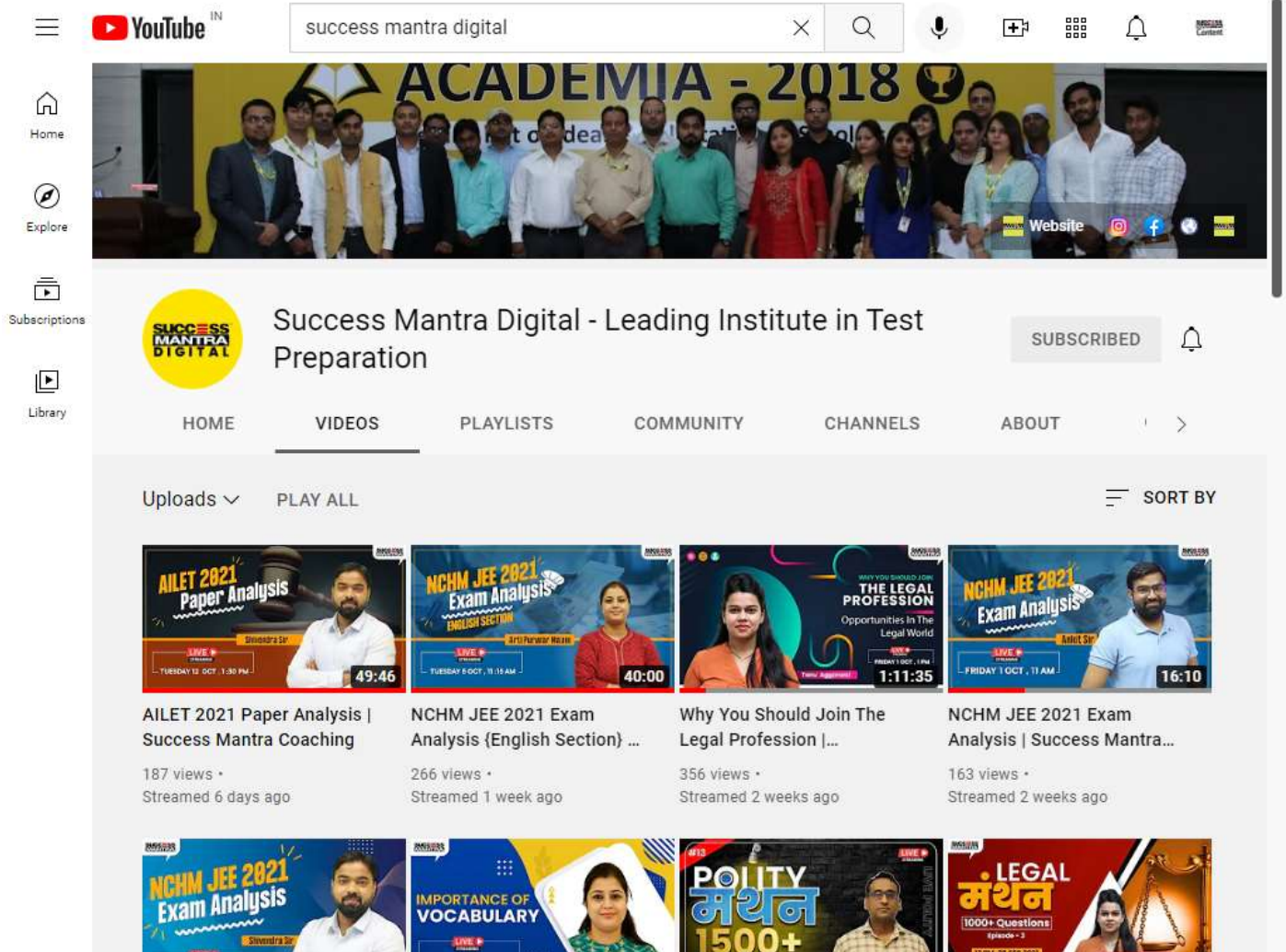


# **LEGAL AFFAIRS**

## **(FEBRUARY & MARCH 2022)**



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**#HARYANA ANTI-CONVERSION BILL, 2022**

- The bill is being brought in the **state of Haryana** to prevent unlawful religious conversions. Haryana is a BJP ruled state. The other BJP ruled states that brought in the bill were **UP, HP, MP and Karnataka**.
- Several "Love Jihad" incidents were reported in the state. **Love Jihad is a term used in the country to address Muslim men forcing Hindu girls to convert to Islam.**
- There are pseudo social organisations that use this strategy to convert vulnerable sections of the society. This phrase is not found in central government laws or state government laws. However, it is common used in politics.

**What does the bill say?**

- It **aims to prohibit religious conversions** through undue influence, misrepresentation, allurements, coercion or other fraudulent means. The bill includes greater punishments for conversions in women, scheduled caste and scheduled tribe.
- If any of the marriages were performed by concealing the religion, the marriage shall be declared void or null under the bill. The designated authority will make enquiries.
- The Right to freedom of religion cannot be extended to interpret **collective right to convert. Because it belongs to the person converting.**
- Still there are mass conversions happening in the country. The people converting are mostly the vulnerable sections. Such people are offered allurements for conversion.
- In some place, the men marry the girls concealing their identity. **They reveal that they follow Islam after getting married. Also, they force their wives to get converted.**

**How will it be established?**

- The individuals converting from one religion to other should submit a declaration that the conversion is not being done under unlawful means. The term unlawful means by use of force, fraudulent means, coercion, undue influence or under threat.

**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.

### 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**.

### PROVISION RELATED TO INTER-FAITH MARRIAGES 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.



**#CONTROVERSY ON THE ROLE OF GOVERNORS**

The Governor acts in '**Dual Capacity**' as the **Constitutional head of the state** and as the **representative of the Union government**.

- In recent years, the **bitterness between states and Governors** has been largely about the **selection of the party to form a government, deadline for proving majority, sitting on Bills, and passing negative remarks on the state administration.**
- Due to this, Governor is referred to with negative terms like an **agent of the Centre, Puppet and rubber stamps.**

**What is Constitutional Provisions Related to the Governor?**

- **Article 153** says that there shall be a Governor for each State. **One person can be appointed as Governor for two or more States.**
- A Governor is appointed by the President and is a nominee of the Central Government.
- It is stated that the **Governor has a dual role.**
- He is the **constitutional head of the state**, bound by the advice of his **Council of Ministers (CoM).**
- He functions as a **vital link between the Union Government and the State Government.**
- **Articles 157 and 158** specify eligibility requirements for the post of governor.
- Governor has the power to **grant pardons, reprieves, etc. (Article 161).**
- There is a CoM with the CM at the head to aid and advise the Governor in the exercise of his functions, **except some conditions for discretion. (Article 163)**
- The Governor appoints the Chief Minister and other Ministers **(Article 164).**
- Governor assents, withholds **assent, or reserves the bill for the consideration** of the President passed by the Legislative Assembly **(Article 200).**
- Governors may promulgate the **Ordinances** under certain circumstances **(Article 213).**

**What are the Friction Points in Governor-State Relations?**

- Governor is envisaged as an **apolitical head** who must act on the advice of the council of ministers. However, the **Governor enjoys certain discretionary powers granted under the Constitution.** For example,
- Giving or **withholding assent** to a Bill passed by the state legislature,
- **Determining the time** needed for a party to prove its majority, or
- Which party must be called first to do so, **generally after a hung verdict in an election.**
- There are **no provisions** laid down for the manner in which the Governor and the state must engage publicly when there is a **difference of opinion.**
- The Governor has a 5-year tenure, he can remain in office only until the **pleasure of the President.**
- In 2001, the **National Commission to Review the Working of the Constitution**, held that the Governor owes his appointment and his continuation to the Union.
- There is the apprehension that he is likely to act in accordance with the instructions received from the Union Council of Ministers.

- There is **no limit** set for how long a Governor can withhold assent to a Bill. The Governor sends a report to the centre which forms the basis of the Union cabinet's recommendations to the President for invoking **Article 356 (President's Rule)**.

### On Appointment and Removal of Governor:

- The "**Punchhi commission - 2010**" recommended that there should be a provision for the impeachment of the governor by the state legislature.
- The state chief minister should have a say in the governor's appointment.

### On the Use of Article 356:

- The "**Punchhi commission - 2010**" recommended that Articles 355 & 356 be amended.
- The **Sarkaria Commission (1988)** recommended that Article 356 should be used in very rare cases when it becomes unavoidable to restore the breakdown of constitutional machinery in the State.
- Recommendations** have also been given by the **Administrative Reforms Commission (1968)**, **Rajamannar Committee (1971)** and **Justice V.Chelliah Commission (2002)**.

### On Dismissal of State Government under Article 356:

- S.R. Bommai Judgment (1994):** The case put an end to the arbitrary dismissal of State governments by a hostile Central government.
- The verdict ruled that the floor of the Assembly is the only forum that should test the majority of the government of the day, and not the subjective opinion of the Governor.
- On Discretionary Powers:** The Supreme Court in the **Nabam Rebia judgment (2016)** ruled that the exercise of Governor's discretion Article 163 is limited and his choice of action should not be arbitrary or fanciful.

## RELATED: DILUTION OF LOKAYUKTA POWERS IN KERALA

- Recently, the **Kerala government has proposed to amend the Kerala Lokayukta Act, 1999** with an ordinance, a move that has drawn criticism from the opposition.
- The proposed ordinance envisages limiting the powers of the anti-corruption watchdog.
- **What are the Proposed Changes?**
  - The Kerala cabinet has recommended to the Governor that he promulgates the ordinance. The proposal sought to give the government powers to "**either accept or reject the verdict of the Lokayukta, after giving an opportunity of being heard**".
- **By this ordinance, the quasi-judicial institution** will turn into a toothless advisory body, whose orders will no longer be binding on the government.
- **What is the Concept of Lokpal and Lokayuktas?**
- The **Lokpal and Lokayukta Act, 2013** provided for the establishment of Lokpal for the Union and Lokayukta for States.
- These institutions are statutory bodies without any constitutional status.
- They perform the function of an "**ombudsman**" and **inquire into allegations** of corruption against certain public functionaries and for related matters.



- **The Lokpal and Lokayuktas Act, 2013 provides for establishing a Lokpal headed by a Chairperson, who is or has been a Chief Justice of India, or is or has been a judge of the Supreme Court, or an eminent person who fulfills eligibility criteria as specified.**
- **Of its other members, not exceeding eight, 50% are to be judicial members, provided that not less than 50% belong to the SCs, STs, OBCs, minorities, or are women.**
- The Lokpal was appointed in March 2019 and it started functioning in March 2020 when its rules were framed. **The Lokpal is at present headed by former Supreme Court Justice Pinaki Chandra Ghose.**
- The Lokpal has jurisdiction to inquire into allegations of corruption against anyone who is or has been Prime Minister, or a Minister in the Union government, or a **Member of Parliament, as well as officials of the Union government under Groups A, B, C and D.**

### #INDIA BANS IMPORT OF FOREIGN DRONES

- The Indian government has banned the import of foreign drones to promote Made in India drones with immediate effect on February 9, 2022.
- The import of drones for research and development, defence and security purposes will though be allowed.
- The import of drone components, however, has not been banned and will not require any approvals, informed the civil aviation ministry on February 9, 2022.



### Draft Drone Rules, 2021

- Each drone has been specified to have a **unique identification number** with the transmission of their location, altitude, speed etc.
- Any drone missing a unique id number with the other details will be a rogue drone.
- Every flight of the drone will be monitored in the **digital sky platform** so when any remote pilot tries to fly a drone, its fly path will automatically be registered in the platform.
- **Digital Sky Platform:** It is an initiative by MoCA to provide a secure and a scalable platform that supports drone technology frameworks, such as **NPNT (no permission, no take-off)**, designed to enable flight permission digitally and manage unmanned aircraft operations and traffic efficiently.
- There will be minimal human interface on the digital sky platform and most permissions will be self-generated.
- Requirements for granting permission for acquisition and usage of drones have been simplified.
- The new draft rules provide the **Ease of Doing Business** for the industries. Earlier there used to be 25 forms to be filled up which now has been reduced to 5.
- Clarity about registration and remote-pilot licensing have been given.

### Rules for Drone Regulations in India:

- **Unmanned Aircraft System (UAS) Rules, 2020:**
- It is a set of rules notified by the government that aims to **regulate the production, import, trade, ownership, establishment of the drone ports (airports for drones) and operation of UAS.**
- It also seeks to **create a framework for drones use by businesses.**



- **National Counter Rogue Drones Guidelines 2019:** The guidelines had suggested a number of measures to counter rogue drones depending on the vitality of assets being protected.
- For places of critical national importance, the rules called for deployment of a model that consists of primary and passive detection means like radar, **Radio Frequency (RF) detectors, electro-optical and infrared cameras.**
- In addition to this, soft kill and hard kill measures like **RF jammers, Global Positioning System (GPS) spoofers, lasers, and drone catching nets** were also suggested to be installed.

### Other Initiatives:

- **Directed-Energy Weapon:** Defence Research and Development Organisation (DRDO) has developed two anti-drone Directed-Energy Weapon (DEW) systems, with a 10-kilowatt laser to engage aerial targets at 2-km range and a compact tripod-mounted one with a 2-kilowatt laser for a 1-km range. But they are yet to be productionized in large numbers.
- **Smash-2000 Plus:** The armed forces are now also importing a limited number of other systems like Israeli 'Smash-2000 Plus' computerized fire control and electro-optic sights, which can be mounted on guns and rifles to tackle the threat from small hostile drones in both day and night conditions.

### #RELATED: SVAMITVA SCHEME

- **SVAMITVA (Survey of Villages and Mapping with Improvised Technology in Village Areas)** scheme is a collaborative effort of the **Ministry of Panchayati Raj, State Panchayati Raj Departments, State Revenue Departments and Survey of India.**
- **Aim:** To provide an **integrated property validation solution** for rural India.
- The mapping will be done across the country in a **phase-wise** manner over a period of four years - from 2020 to 2024.

### #2008 AHMEDABAD BLAST CASE VERDICT

- A special court on February 18, 2022 awarded death sentence to **38 out of the 49 convicts** and life imprisonment to **11 others** in the **2008 Ahmedabad serial bomb blasts case.**
- This is the highest number of convicts to be **sentenced to death in a single case in India's history.**
- The court also imposed a fine worth Rs 2.85 lakh on each of the 48 convicts in long order. The death sentence was awarded to the 38 convicts under IPC Section 302 (murder) and Sections 10 and 16(1) of the Unlawful Activities Prevention Act. A fine worth Rs 25000 was also imposed on each of the 38 convicts for each of the three offences.
- The court awarded life imprisonment to 11 other convicts under **IPC Section 302 and UAPA Sections 10 and 16. The 11 convicts were also fined Rs 25000 each.**



### Ahmedabad Blast Case Verdict

- The prosecution had sought a death sentence for all 49 convicts but defence lawyers requested the court for

leniency considering their socio-economic conditions.

- All the convicts are currently lodged in different jails in **Ahmedabad, Bhopal, Jaipur, Bengaluru, Gaya and Taloja**. The special court had held 49 people guilty in the **Ahmedabad bomb blast** case on February 8, 2022 and acquitted 28 others giving them the benefit of doubt.
- All 49 convicts were found guilty of various charges including murder, criminal conspiracy, sedition, unlawful activities, and terrorist activity and attempting to wage war against the nation, all of which are punishable by death.

### Ahmedabad Serial Bomb Blasts 2008

- A total of 56 people were killed and 246 others were injured when serial bomb blasts occurred in Ahmedabad on July 26, 2008.
- **Indian Mujahideen** had claimed responsibility for the attack and termed it as a reprisal of the **2002 Gujarat Riots**.

### Unlawful Activities (Prevention) Amendment Bill, 2019

- Originally enacted in 1967, the **UAPA was amended to be modelled** as an anti-terror law in 2004 and 2008.
- In August 2019, Parliament cleared the **Unlawful Activities (Prevention) Amendment Bill, 2019** to designate individuals as terrorists on certain grounds provided in the Act.
- In order to deal with the terrorism related crimes, it deviates from ordinary legal procedures and creates an exceptional regime where constitutional safeguards of the accused are curtailed.
- Between 2016 and 2019, the period for which UAPA figures have been published by the **National Crime Records Bureau (NCRB)**, a total of 4,231 FIRs were filed under various sections of the UAPA, of which 112 cases have resulted in convictions.
- This frequent application of UAPA indicates that it is often misused and abused like other anti-terror laws in the past in India such as **POTA (Prevention of Terrorism Act)** and **TADA (Terrorist and Disruptive Activities (Prevention) Act)**.

### RELATED: 26/11 MUMBAI TERROR ATTACK

- 13 years ago on November 26, 2008, Mumbai witnessed 12 bombing attacks across some of the most prominent places like the **Chhatrapati Shivaji Maharaj Terminus, the Taj Mahal Hotel, the Oberoi, the Nariman House Jewish Community** among other places.
- As many as 166 people were killed including 18 security personnel and several others got injured. A total of 10 members of the Pakistan-based terrorist outfit Lashkar-e-Taiba carried out a coordinated deadly terror attack in Mumbai that lasted for four days. 9 out of the 10 terrorists were killed by the security forces.

### 26/11 Mumbai Terror Attacks: Background

- **10 members of the Lashkar-e-Taiba (LeT)** terrorist outfit entered Mumbai through the sea route from Pakistan and began their series of coordinated bombing attacks that lasted for four days.
- On November 26, 2008, they launched their first attack at the **Chhatrapati Shivaji Terminus** railway station.
- The second attack was carried out at the Nariman House wherein five Israeli citizens also got killed. The

third attack was carried out at the Leopold Café and Taj Mahal Hotel. **The fourth attack was carried out at Oberoi-Trident Hotel.**

- The series of 26/11 terror attacks in Mumbai began on November 26, 2008, and ended on November 29, 2008, when the Commandoes of the National Security Guards (NSG) gunned down 9 out of the 10 terrorists at the Taj Mahal Palace Hotel. **Ajmal Kasab was the lone survivor terrorist.**

### Who was behind the 26/11 Mumbai Terror Attacks?

- A total of 10 members of the **Pakistan-based terrorist outfit Lashkar-e-Taiba** carried out a coordinated deadly terror attack in Mumbai that lasted for four days. The mastermind of the 26/11 Mumbai Terror Attacks was Hafiz Saeed whom Pakistan arrested and later released.
- **Ajmal Kasab was the only surviving attacker of the 26/11 Mumbai Terror Attacks**
- **Ajmal Kasab** was the only surviving attacker among the 10 members of the Pakistan-based terrorist outfit Lashkar-e-Taiba who carried out the **26/11 Mumbai Terror Attacks.**
- Kasab was arrested by the security forces and upon interrogation; he confirmed that the attacks were coordinated and conducted by the Lashkar-e-Taiba and other Pakistan-based terror outfits. **Kasab was sentenced to death in 2012 at Yerwada Central Jail in Pune.**

### #SC ON KRISHNA RIVER WATER DISPUTE

- On February 18, 2022, government of Karnataka moved to Supreme Court and sought to set up of a bench to hear a plea related to **dispute over allocation of water of Krishna River.**
- The Krishna River flows in states of **Maharashtra, Karnataka, Andhra Pradesh, and Telangana.**
- SC bench comprising of Justice D Y Chandrachud from Maharashtra, and Justice A S Bopanna from Karnataka, had recused from the case on January 10, 2022, arising out of the decision of water tribunal.
- The judges recused themselves, because they were upset with the tone of mails and letters against them for being part of this bench on water dispute.



### What is the issue?

- Karnataka had sought the vacation on a SC order of November 16, 2011, that restrained Central government from publishing the final order of **Krishna Water Dispute Tribunal II (KWDT)** in official gazette.
- This order was pronounced in 2010 and allocated the river water to Karnataka, Maharashtra and erstwhile Andhra Pradesh.
- KWDT had further modified its final order and reported on in November 2013, to allocate surplus water to **Karnataka, Maharashtra, and erstwhile Andhra Pradesh, while preserving the allocation of 2,130 TMC.**
- However, after the bifurcation of erstwhile **Andhra Pradesh, Telangana & Andhra Pradesh** had moved to the **Supreme Court and challenged the allocation share of the KWDT.**

### Stalled projects

- Karnataka argued that its dam and irrigation projects to provide water in its parched northern areas were

stalled for all these years due to 2011 order of not publishing KWDT decisions in **Official Gazette in line with Section 6(1) of the Inter-State Water Disputes Act, 1956.**

## #RECUSAL OF JUDGES FROM THE CASE

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.

## 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.**

## 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.

**RELATED: TELANGANA-ANDHRA PRADESH WATER DISPUTE**

- Telangana and Andhra Pradesh share stretches of the **Krishna and the Godavari** and own their tributaries.
- Both states have proposed several new projects without getting clearance from the river boards, the **Central Water Commission** and the **Apex Council**, as mandated by the **Andhra Pradesh Reorganisation Act, 2014**.
- **The Andhra Pradesh Reorganisation Act, 2014** mandates for the constitution of an Apex Council by the Central Government for the supervision of the functioning of the **Godavari River Management Board** and **Krishna River Management Board**.
- The **Apex Council** comprises the **Union Water Resources Minister** and the **Chief Ministers of Telangana and Andhra Pradesh**.
- The Andhra Pradesh government's proposal to increase the utilisation of the Krishna water from a section of the river above the **Srisailem Reservoir** led to the Telangana government filing a complaint against Andhra Pradesh.
- The Srisailem reservoir is constructed across the Krishna River in Andhra Pradesh. It is located in the **Nallamala hills**.
- The Andhra Pradesh government retaliated with its own complaints saying that **Palamuru-Rangareddy, Dindi Lift Irrigation Schemes** on the Krishna River and **Kaleshwaram, Tupakulagudem schemes** and a few barrages proposed **across the Godavari** are all new projects

**#CONSENT OF STATES FOR CBI INVESTIGATIONS**

- **Meghalaya has become the ninth state of the country** to withdraw consent to CBI to investigate cases in the state.
- The **Delhi Special Police Establishment (DSPE) Act, 1946**, governs the CBI and it is mandatory to obtain the concerned state government's consent before beginning to investigate a crime in a state.
- States typically give a general consent to assist the CBI in conducting a seamless investigation of cases of corruption involving central government personnel in their states.
- This is consent by default otherwise CBI would have to seek permission from the state government in every case, even for small tasks.

**What is the meaning of withdrawal of consent?**

- It means that the **CBI will not be able to file any new cases** involving central government officials or private persons in the state without the permission of the state government.
- CBI officers who will be entering the state that has withdrawn consent will lose all powers of a police officer as soon as they enter the state unless they have received permission from the government of the state.
- Calcutta High Court had declared that the central agency cannot be barred from investigating a central government employee in another state even if the **central government employee is posted in a state that has withdrawn consent**.
- The withdrawal of permission would be applicable in circumstances involving only state government employees. In the Supreme Court, this ruling has been challenged.

**Which states have withdrawn consent?**

- Before Meghalaya, the eight other states that had withdrawn consent to the CBI are **Punjab, Maharashtra, West Bengal, Rajasthan, Chhattisgarh, Jharkhand, Mizoram, and Kerala**.
- The **first state to withdraw consent was Mizoram which did so in 2015**.
- **CBI can take advantage of the Calcutta HC order till and if it is overturned by the Supreme Court. Even if consent is revoked**, CBI can retain the power to investigate cases that had been registered before the withdrawal of consent. Also, a case registered anywhere else in the country involving individuals stationed in these states extended the CBI's authority to these states.

**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**.

### 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**.

### #REPRESENTATION OF WOMEN IN JUDICIARY

Recently, the **Chief 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 (10<sup>th</sup> March)**.
- What is the International Day of Women Judges?
- **About:** **United Nations General Assembly Resolution 75/274** designated **10<sup>th</sup> March** the International Day of Women Judges in **2021**.
- India was **among the nations that sponsored the resolution**, which was moved by Qatar.



#### Significance:

- The day **aims to recognise the efforts and contributions** being made by women judges.
- The day also **empowers young women and girls** who aspire to become judges and leaders in the community.
- Combating gender disparity in the judicial services will also **help achieve the Sustainable Development Goals of the United Nations**.
- **SDG Goal 5:** Achieve gender equality and empower all women and girls.

#### What is the State of Women in Judiciary?

- In high courts, the percentage of **women judges** is a mere **11.5%**, while in the **Supreme Court** there are **four sitting women judges out of 33 in office**.



- The situation of **women lawyers in the country** is not any better. Out of 1.7 million advocates registered, **only 15% are women**.

### What are the Reasons for Low Women Representatives?

- **Patriarchy in Society:** The **primary reason for underrepresentation** of women in judiciary is deeply ingrained patriarchy in society.
- Women often have to face **hostile atmospheres within courtrooms**. **Harassment, lack of respect from members of the bar and bench**, the silencing of their opinions, are some of the other traumatic experiences often recounted by many women lawyers.
- **Opaque Collegium System Functioning:** More women tend to enter the lower judiciary at the entry level because of the method of recruitment through an entrance examination.
- However, the higher judiciary has a collegium system, which has tended to be more opaque and, therefore, more likely to reflect bias.
- Recently, the **Supreme Court Collegium** recommended **192 candidates for the High Courts**, out of these, 37, that is 19%, were women. But Unfortunately, so far **only 17 of the 37 women recommended were appointed**.
- **No Women Reservation:** Many states have a reservation policy for women in the lower judiciary, which is missing in the **High Courts and Supreme Court**.
- States such as **Assam, Andhra Pradesh, Telangana, Odisha and Rajasthan** have benefited from such **reservation** as they now have 40-50% women judicial officers.
- However, the **Bill for giving 33% reservation to women in Parliament** and state legislatures has not been passed till date, despite all major political parties publicly supporting it.

### Data on Gender Gap in Judiciary:

- The **SC** only has **2 women judges**, as against the **34 seats reserved for women judges** and there has **never been a female Chief Justice of India (CJI)**.
- There are **only 80 women judges** out of the **total sanctioned strength of 1,113 judges** in the **SC and the HCs**.
- Out of these 80 women judges, there are only two in the SC, and the other 78 are in various HCs, comprising only 7.2% of the total number of judges.
- Of the 26 courts whose data was accessed, including the SC, the **Punjab and Haryana HCs** has the **maximum strength** of women judges (11 out of 85 judges) in the country, **followed by the Madras HC** (9 out of 75 judges). Both Delhi and Bombay HCs have 8 women judges.
- The **HCs of Manipur, Meghalaya, Patna, Tripura, Telangana, and Uttarakhand**, do not have any **women** in the sitting judges.

### #What is a Collegium System and How Did It Evolve?

- It is the **system of appointment and transfer of judges** that has evolved through judgments of the **Supreme Court (SC)**, and **not by an Act of Parliament** or by a provision of the Constitution.
- **Evolution of the System:**

- **First Judges Case (1981):** It declared that the “primacy” of the CJI’s (Chief Justice of India) recommendation on judicial appointments and transfers can be refused for “cogent reasons.”
- The ruling gave the Executive primacy over the Judiciary in judicial appointments for the next 12 years.
- **Second Judges Case (1993):** SC introduced the Collegium system, holding that “consultation” really meant “concurrence”.
- It added that it was not the CJI’s individual opinion, but an institutional opinion formed in consultation with the two senior-most judges in the SC.
- **Third Judges Case (1998):** SC on the President’s reference (Article 143) expanded the Collegium to a five-member body, comprising the CJI and four of his senior-most colleagues.

### Who Heads the Collegium System?

- The SC collegium is headed **by the CJI (Chief Justice of India) and comprises four other senior most judges** of the court.
- A HC collegium is led by its Chief Justice and four other senior most judges of that court.
- Names recommended **for appointment by a HC collegium reaches the government only after approval by the CJI** and the SC collegium.
- Judges of the higher judiciary are appointed only through the collegium system and the government has a role only after names have been decided by the collegium.
- **Related Constitutional Provisions**
- **Article 124(2)** of the Indian Constitution provides that the **Judges of the SC are appointed by the President after consultation** with such a number of the Judges of the SC and of the High Courts in the States as the President may deem necessary for the purpose.
- **Article 217** of the Indian Constitution states that the **Judge of a High Court shall be appointed by the President in consultation with the CJI, the Governor of the State**, and, in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of the High Court.

### #PROVISION OF BAIL UNDER UAPA

Recently, a Delhi court granted bail to a former Congress (Political Party) councillor in an **Unlawful Activities (Prevention) Act 1967 (UAPA)** case filed in connection with the 2020 anti-Citizenship (Amendment) Act, 2019, (CAA) protests.



### What is the Citizenship (Amendment) Act, 2019?

- The CAA provides citizenship to six undocumented non-Muslim communities (**Hindus, Sikhs, Buddhists, Jains, Parsis and Christians**) from Pakistan, Afghanistan and Bangladesh, who **entered India on or before 31st December, 2014**.
- It exempts the members of the six communities from any criminal case under the **Foreigners Act, 1946 and the Passport Act, 1920**.
- The two Acts specify punishment for entering the country illegally and staying here on expired visas and permits.

**What was the Current Ruling?**

- The **court granted bail** to the accused despite the prosecution arguing that there were limitations contained in **Section 43D(5) of the UAPA**, a provision which makes grant of bail virtually impossible, as it leaves little room for judicial reasoning.
- The Defence argued that Section 43D UAPA only **puts restrictions but is not an absolute bar to the grant of bail**.
- What are the Bail Related Provisions and Issues in UAPA?
- The major problem with the UAPA lies in its **Section 43(D)(5), which prevents the release of any accused person on bail** if, police have filed the chargesheet that there are reasonable grounds for believing that the accusation against such person is prima facie true.
- The effect of Section 43(D)(5) is that **once the police elect to charge an individual under the UAPA, it becomes extremely difficult for bail to be granted**. Bail is a safeguard and guarantee of the constitutional right to liberty.
- This provision leaves very **little room for judicial reasoning, and makes the grant of bail virtually impossible under UAPA**.
- In the case of **Zahoor Ahmed Shah Watali**, the **Supreme Court** in 2019 confirmed that **courts must accept the state's case without examining its merits**.
- However, **courts have since read this provision differently, emphasizing the right to a speedy trial** and raising the bar for the state to book an individual under UAPA.

**What is Unlawful Activities (Prevention) Act 1967?**

- The UAPA was enacted in 1967, and later **strengthened to be modelled as an anti-terror law by the government in 2008 and 2012**.
- In August 2019, Parliament cleared the **Unlawful Activities (Prevention) Amendment Bill, 2019** to designate individuals as terrorists on certain grounds provided in the Act.
- In order to **deal with the terrorism related crimes**, it deviates from ordinary legal procedures and creates an exceptional regime where constitutional safeguards of the accused are curtailed.
- Between 2016 and 2019, the period for which UAPA figures have been published by the **National Crime Records Bureau (NCRB)**, a total of **4,231 First Information Report (FIR)** were filed under various sections of the UAPA, of which 112 cases have resulted in convictions.
- This frequent application of UAPA indicates that it is often misused and abused like other anti-terror laws in the past in India such as **POTA (Prevention of Terrorism Act) 2002** and **TADA (Terrorist and Disruptive Activities (Prevention) Act) 1987**.

**What are other Associated Issues of the UAPA?**

- **Vague Definition of Terrorist Act:** The definition of a **"terrorist act"** under the UAPA substantially **differs from the definition promoted by the United Nations (UN)** Special Rapporteur on the Protection of Human Rights and Fundamental Freedoms while Countering Terrorism.
- According to Special Rapporteur to call an offence a **"terrorist act"**, three elements must be cumulatively present:

- The means used must be deadly.
- The intent behind the act must be to cause fear amongst the population or to compel a government or international organisation to do or refrain from doing something.
- The aim must be to further an ideological goal.
- **UAPA**, on the other hand, **offers an overbroad and ambiguous definition** of a “terrorist act” which includes the death of, or injuries to, any person, damage to any property, etc.
- **Pendency of Trials:** Given the state of justice delivery system in India, the rate of **pendency at the level of trial is at an average of 95.5%.**

## #PROTECTION OF CHILDREN FROM SEXUAL OFFENCES

Recently, a 2-judge bench of the Supreme Court has delivered a split verdict on the issue whether **Section 155(2) of the Code of Criminal Procedure** will apply to the investigation of an offence under **Section 23 of the Protection of Children from Sexual Offences Act, 2012 (POCSO).**

- As per **Section 155(2) CrPC**, a police officer cannot investigate a non-cognizable offence without the order of a Magistrate.
- **Section 23 of POCSO** relates to the **offence of disclosure of the identity of the victim of the sexual offence.**
- One of the judges opined that **disclosure of the identity of a child** who is a victim of sexual offences or who is in conflict with the law is in **fundamental breach of the right of the child to dignity, the right not to be embarrassed.**



## What are the issues related to Child Sexual Abuse?

- **Multi-layered Problem:** Child sexual abuse is a **multi-layered problem which negatively impacts children's physical safety, mental health, well-being and behavioural aspects.**
- **Amplification Due to Digital Technologies:** Mobile and digital technologies has further amplified child abuse and exploitation. New forms of child abuse like online bullying, harassment and **Child Pornography** have also emerged.
- **Ineffective Legislaton:** Although Government of India has enacted the **Protection of Children against Sexual Offences Act 2012 (POCSO Act)**, it has **failed to protect child from sexual abuse.** The reasons for this can be following:
  - **Low Conviction Rate:** The rate of conviction under the **POCSO act is only about 32%** if one takes the average of the past 5 years and the percentage of cases pending is 90%.
  - **Judicial Delay:** The Kathua Rape case took 16 months for the main accused to be convicted whereas the POCSO Act clearly mentions that the entire trial and conviction process has to be done in one year.
  - **Unfriendly to Child:** Challenges related to **age-determination of the child.** Especially laws that focus on biological age and not mental age.



**What are the Related Initiatives?**

- **Child Abuse Prevention and Investigation Unit**
- **BetiBachao, BetiPadhao**
- **Juvenile Justice Act/Care and Protection Act, 2000**
- **Child Marriage Prohibition Act (2006)**
- **Child Labour Prohibition and Regulation Act, 2016**

**What are the Related Constitutional Provisions?**

- The Constitution guarantees to every **child the right to live with dignity (Article 21), the right to personal liberty (Article 21), the right to privacy (Article 21), the right to equality (Article 14) and/or the right against discrimination (Article 15), the right against exploitation (Article 23 & 24).**
- **Right to free and compulsory elementary education** for all children in the 6-14 year age group (Article 21 A)
- **The Directive Principles of State Policy, and in particular Article 39(f), cast an obligation on the State to ensure that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.**

**Protection of Children from Sexual Offences Act, 2012**

- It was **enacted to protect the children from offences of sexual assault, sexual harassment and pornography** with due regard for safeguarding the interest and well-being of children.
- It **defines** a child as **any person below eighteen years of age** and regards the best interests and welfare of the child as a matter of paramount importance at every stage, to ensure the healthy physical, emotional, intellectual and social development of the child.
- It **defines different forms of sexual abuse**, including penetrative and non-penetrative assault, as well as sexual harassment and pornography.
- It deems a **sexual assault to be “aggravated” under certain circumstances**, such as when the abused child is mentally ill or when the abuse is committed by a person in a position of trust or authority like a family member, police officer, teacher, or doctor.
- It also **casts the police in the role of child protectors** during the investigative process.
- The Act stipulates that a **case of child sexual abuse must be disposed of within one year** from the date the offence is reported.
- It was **amended in August 2019** to provide **more stringent punishment**, including the death penalty, for sexual crimes against children.

**About the BetiBachaoBetiPadhao (BBBP) Scheme:**

- **Main Objectives:**
- Prevention of gender-biased sex-selective elimination.
- Ensuring survival & protection of the girl child.
- Ensuring education and participation of the girl child.

- Protecting rights of Girl child.
- **Multisectoral Nationwide Campaign:**
- BBBP is a **national campaign** and focussed **multisectoral action** in 100 selected districts low in **Child Sex Ratio (CSR)**, covering all States and UTs.
- This is a **joint initiative** of the Ministry of Women and Child Development, Ministry of Health and Family Welfare and Ministry of Human Resource Development.

### #ARTICLE 355 & BREAKDOWN OF CONSTITUTIONAL MACHINERY

Citing post-poll violence in **Birbhum district, West Bengal**, many political leaders have urged the president to invoke **Article 355 of the Constitution** to ensure that the state government functions in accordance with the provisions of the Constitution.



- The petitioner has asked for imposition of **Article 355** on account of **breakdown of constitutional machinery**.

#### What is Article 355?

- Article 355 refers to the provision in the Constitution that states that “It shall be the duty of the **Union to protect every State against external aggression and internal disturbance** and to ensure that the **government of every State is carried on in accordance with the provisions of this Constitution**”.
- The Article 355 is part of **emergency provisions** contained in **Part XVIII of the Constitution of India**, from Article 352 to 360.

#### What is the Relation Between Article 356 and Article 355?

- It is this duty in the performance of which the centre takes over the government of a state under **Article 356** in case of **failure or breakdown of constitutional machinery in a state**.
- This is popularly known as ‘**President’s Rule**’.
- **Grounds of imposition:** the president’s ruler can be proclaimed under Article 356 on two grounds:
- **Article 356** empowers the **President to issue a proclamation** if he is satisfied that a situation has arisen in which the government of a state cannot be carried on in accordance with the provisions of the constitution.
- **Article 365** says that whenever a state fails to comply with or to give effect to any direction from the centre, it will be lawful for the President to hold that a situation has arisen in which the government of the state cannot be carried on in accordance with the provisions of the constitution.
- **Parliamentary approval and duration:** A proclamation imposing the president's rule must be approved by both the **houses of parliament within two months** from the date of its issue.
- **Consequences of the President’s rule:** The President acquires the following extraordinary powers when the President’s rule is imposed in a state:
  - He can take up the **functions of the state government and powers vested in the governor** or any other executive authority in the state.
  - He can declare that the **powers of the state legislature are to be exercised by the parliament**.
  - He can take all other necessary steps including the **suspension of the constitutional provisions relating to any body or authority in the state**.

- **Scope of judicial review:** The 38<sup>th</sup> Amendment act of 1975 made the satisfaction of the President in invoking **Article 356 final and conclusive** which would not be challenged in any court on any ground.
- But, this provision was subsequently deleted by the 44<sup>th</sup> Amendment Act of 1978 implying that the satisfaction of the President is not beyond **judicial review**.

## What are Emergency Provisions?

- These provisions **enable the Central government to meet any abnormal situation effectively**.
- **Emergency Provisions** in Indian Constitution are **taken from Government of India Act 1935**.
- However, suspension of Fundamental Rights during emergency is taken from **Weimer (German) Constitution**.
- The rationality behind the incorporation is to safeguard the **sovereignty, unity, integrity and security of the country**, the democratic political system and the Constitution.
- The Constitution stipulates three types of emergencies:
- **National Emergency**
- **Constitutional Emergency**
- **Financial Emergency**

## What Is a National Emergency?

- National emergency can be **declared on the basis of war, external aggression or armed rebellion**.
- The Constitution employs the expression '**proclamation of emergency**' to denote an emergency of **this type**.

## Grounds of declaration:

- Under **Article 352**, the president can declare a national emergency when the security of India or a part of it is threatened by war or external aggression or armed rebellion.
- The President **can declare a national emergency even before the actual occurrence** of war or armed rebellion or external aggression
- When a national emergency is declared on the **grounds of 'war' or 'external aggression'**, it is known as '**External Emergency**'.
- On the other hand, when it is declared on the **grounds of 'armed rebellion'**, it is known as '**Internal Emergency**'.
- This term '**armed rebellion**' is inserted from the **44<sup>th</sup> amendment**. Before this term it was known as internal disturbance.

## What is a Financial Emergency?

- **Grounds of declaration:** Article 360 empowers the president to proclaim a Financial Emergency if he is satisfied that a **situation has arisen due to which the financial stability or credit of India or any part of its territory is threatened**.
- What is the impact of Emergencies on Fundamental Rights?
- Articles **358 and 359** describe the effect of a National Emergency on the **Fundamental Rights**. These two provisions are explained below:

- **Suspension of Fundamental rights under Article 19:** According to Article 358, when a proclamation of National Emergency is made, the six fundamental rights under Article 19 are automatically suspended.
- **Suspension of other Fundamental Rights:** Under Article 359, the President is authorised to suspend, by order, the right to move any court for the enforcement of Fundamental Rights during a National Emergency.
- However it should be noted that Fundamental Rights are **not affected during President's Rule and Financial Emergency**.

### #CONSTITUTION (ST) ORDER (AMENDMENT) BILL, 2022

- Lok Sabha passed the **Constitution (Scheduled Tribes) Order (Amendment) Bill, 2022** on March 28, 2022. The Bill seeks to amend the Constitution (Scheduled Tribes) Order, 1950 for the inclusion of the Darlong community in the list of Tripura Scheduled Tribes.

- The **Constitution (Scheduled Tribes) Order (Amendment) Bill, 2022** proposes the "Darlong" community as a sub-tribe of "Kuki" in the list of Scheduled Tribes in Tripura.



- The **bill was tabled by Tribal Affairs Minister Arjun Munda**. He said that the Constitution (Scheduled Tribes) Order (Amendment) Bill, 2022 has been introduced to include Darlong community as a sub-tribe of Kuki community in Tripura.

### Why has Constitution (Scheduled Tribes) Order (Amendment) Bill 2022 been introduced?

- The **Constitution (Scheduled Tribes) Order (Amendment) Bill 2022** proposes the inclusion of a community - Darlong in Tripura Scheduled Tribes list as in hilly areas the people of the same community are residing as different sub-tribes and are excluded from the list for a long time.

### Constitution (Scheduled Tribes) Order (Amendment) Bill 2022: Key Provisions

- The Tripura state government had requested to include the "**Darlong**" community as a sub-tribe of "**Kuki**" in entry 9 in the list of Scheduled Tribes in respect of the State of Tripura.
- Based on this recommendation, it was proposed to modify the list of Scheduled Tribes in respect to Tripura state by amending the Constitution (Scheduled Tribes) Order, 1950.
- The **Constitution (Scheduled Tribes) Order (Amendment) Bill, 2022** proposes to amend Part XV- Tripura of the Schedule to the Constitution (Scheduled Tribes) Order, 1950 to insert the "Darlong" community as a sub-tribe of "Kuki" after item (iii) Chhalya in entry 9 in the list of Scheduled Tribes of Tripura.

### How will this benefit the community?

- The addition of the community to the list of Scheduled Tribes of Tripura may entail additional expenditure, as the people belonging to the community will be entitled to the **same benefits under the**



continuing schemes meant for the welfare of the Scheduled Tribes.

- The additional expenditure shall be accommodated within the approved budgetary outlay of the Government. The additional expenditure to be incurred on this account has not been estimated yet.

### Significance

- While **tabling the Constitution (Scheduled Tribes) Order (Amendment) Bill 2022**, the Tribal Affairs Minister said that the government is committed to the all-around development of tribal areas.
- He further informed that there has been a gradual increase in the allocation of funds under Scheduled Tribe Component-STC. While during 2014-15, the allocation was only Rs 16,111 crore, it was increased to Rs 87,585 crore in 2021-22.
- The IT Ministry recently initiated a scheme with an outlay of around Rs 7000 crore to **enable broadband and 4G connectivity to all villages under ST component to enable better connectivity in the villages.**
- The centre is also implementing Adi Adarsh Gram Yojana with the objective of ensuring integrated development of tribal areas under which, **several schemes on education, health and tap water are being provided to the people.**

### SC/ST Act:

- SC ST Act 1989 is an Act of Parliament enacted to **prohibit discrimination against SC & ST community's members** and prevent atrocities against them.
- The Act is also a **recognition of the depressing reality** that despite undertaking several measures, the **Scheduled Castes/ Scheduled Tribes** continue to be subjected to various atrocities at the hands of upper-castes.
- The Act has been enacted keeping in view the express constitutional safeguards enumerated in **Articles 15 (Prohibition of Discrimination), 17 (Abolition of Untouchability) and 21 (Protection of Life and Personal Liberty) of the Constitution**, with a twin-fold objective of **protecting the members of these vulnerable communities** as well as to **provide relief and rehabilitation** to the victims of caste-based atrocities.
- In the **amended SC/ST Act (2018)**, preliminary inquiry is not a must and no prior approval is also required for appointing authorities for senior police officers to file FIRs in cases of atrocities on SC and ST.

### Article 142:

- **About:** It provides **discretionary power to the Supreme Court** as it states that the Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is **necessary for doing complete justice** in any cause or matter pending before it.
- **Constructive Application:** In the early years of the evolution of Article 142, the general public and the lawyers both lauded the Supreme Court for its efforts to bring complete justice to various deprived sections of society or to protect the environment.

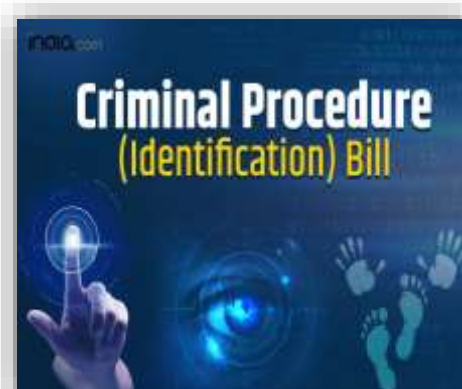
- In the **Union Carbide case**, relating to the victims of the Bhopal gas tragedy, the Supreme Court placed itself above the laws made by the Parliament or the legislatures of the States by saying that, to do complete justice, it could even override the laws made by Parliament.
- However, in the **Supreme Court Bar Association v. Union of India**, the Supreme Court stated that **Article 142 could not be used to supplant the existing law, but only to supplement the law.**
- **Cases of Judicial Overreach:** In recent years, there have been several judgments of the Supreme Court wherein it has been **foraying into areas which had long been forbidden to the judiciary by reason of the doctrine of 'separation of powers'**, which is part of the basic structure of the Constitution. One such example is:
  - The **ban on the sale of alcohol along national and state highways:** While the notification by the central government prohibited liquor stores along National Highways only, the Supreme Court put in place **a ban on a distance of 500 metres by invoking Article 142.**

### Provisions against Untouchability in India

- **Article 17-** Abolition of Untouchability. It is a Fundamental Right (Part III), available against individual; Article 17 does not define the term 'untouchability'.
- To expand the ambit of Article 17, the government came up with the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989. The new legislation was enacted to deal with more violent caste-driven atrocities against scheduled castes and scheduled tribes.
- Above provisions are not exhaustive, there are many other provisions which prevent any form of discrimination or promote the weaker section. E.g. **Article 46 from Directive Principles of State Policy** talks about promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections.
- **Article 330** provides for the reservation of seats for Scheduled Castes and Scheduled Tribes in the Lok Sabha and **Article 332** provides for the reservation of seats in the Legislative Assemblies of the States.

### #CRIMINAL PROCEDURE (IDENTIFICATION) BILL, 2022

- The Criminal Procedure (Identification) Bill, 2022 was introduced in the Lok Sabha by Minister of State in **Home Affairs Ministry Ajay Mishra** on **March 28, 2022.**
- The bill was presented during the ongoing second half of the Budget Session of the Parliament to repeal the Identification of Prisoners Act, 1920.
- **The Minister said that the current Identification of Prisoners Act was formed in 1920.**



### What is Criminal Procedure Identification Bill?

- The **Criminal Procedure Identification Bill 2022** seeks to repeal the existing "The Identification of Prisoners Act, 1920", which is limited to allowing collection of finger and footprint impressions and photographs for a limited category of convicted and non-convicted persons on the order of a Magistrate.

### What powers does Criminal Procedure Identification Bill 2022 give to police?

- The Criminal Procedure Identification Bill 2022 aims to authorise the police to take measurements of convicts and other persons for the purposes of their identifications and investigations in criminal matters to preserve records.
- The Identification of Prisoners Act, 1920 allowed collection of measurements for limited category of prisoners, the new **Criminal Procedure Identification Bill 2022** will allow police or prison officials to collect measurements of all those who are detained under various charges or even those under preventive detention.
- It will somewhere give the **police to take physical and biological samples of all detainees.**

### Know Key Provisions of the Bill in 5 Points

- **The Criminal Procedure (Identification) Bill 2022** will repeal the Identification of Prisoners Act, 1920, which is limited to collecting **fingerprint and footprint impressions for limited category of prisoners.**
- The new bill will allow the police to take measurements of all convicts and other detained persons to preserve records for the purpose of their identification.
- As per provisions of the new Criminal Procedure (Identification) Bill 2022, any person detained, convicted or arrested or under any preventive detention law will be required to provide "measurements" to a police officer or a prison official.
- The bill will allow the police to take iris and retina scan, photographs, finger-impressions, palm-print impressions, footprint impressions, physical, biological samples and their analysis.
- The bill will also allow the police to collect their behavioural attributes including signatures and handwriting or any other examination referred under **section 53 or section 53A of the Code of Criminal Procedure, 1973.**

### What does this mean?

- Under the **new criminal identification bill**, any person who is detained, arrested, convicted or under preventive detention will be required to provide the above measurements to a police officer.

### Background

- The **budget session of the Parliament** was held in two parts, the first half had begun on January 31 and concluded on February 11. **The second half of the Budget session of Parliament began on March 14 and is scheduled to conclude on April 8, 2022.**

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