

**SOCIAL ISSUE**

**Petition on Conjugal Rights**

A petition challenging the provision allowing restitution (recovery) of conjugal rights under Hindu personal laws (Hindu Marriage act 1955).has been pending in the Supreme Court (SC) for months without a hearing.The petition, titled Ojaswa Pathak vs Union of India, was filed in the SC in February 2019. The case was last heard in July 2021.

**Key Points**

**Conjugal Rights:**

- Conjugal rights are rights created by marriage, i.e. right of the husband or the wife to the society of the other spouse.
- The law recognises these rights— both in personal laws dealing with marriage, divorce etc, and in criminal law requiring payment of maintenance and alimony to a spouse.Section 9 of the Hindu Marriage Act 1955 and Section 22 of the Special Marriage Act 1954 empower a husband or a wife to move the local district court, complaining that the other partner has “withdrawn” from the marriage without a “reasonable cause”.
- The concept of restitution of conjugal rights is codified in Hindu personal law now, but has colonial origins.
- Originating from Jewish law, the provision for restitution of conjugal rights reached India and other common law countries through British Rule.
- The British law treated wives as their husband's personal possession hence they were not allowed to leave their husbands.
- Similar provisions exist in Muslim personal law as well as the Divorce Act, 1869, which governs Christian family law.
- Incidentally, in 1970, the U.K repealed the law on restitution of conjugal rights.

**Challenged Provision:**

- Section 9 of the Hindu Marriage Act, 1955, which deals with restitution of conjugal rights, reads:
  1. When either the husband or the wife has, without reasonable excuse, withdrawn from the society of the other, the aggrieved party may apply, by petition to the district court.
  2. For restitution of conjugal rights and the court, on being satisfied of the truth of the statements made in such a petition and that there is no legal ground why the application should not be granted, may decree restitution of conjugal rights accordingly.

**Reason for Challenging the Law:**

- **Violation of Rights:**
  1. The law is being challenged now on the main grounds that it violates the fundamental right to privacy.
  2. In 2017, a nine-judge Bench of the SC recognised the right to privacy as a fundamental right.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.
  3. The 2017 judgement has set the stage for potential challenges to several laws such as criminalisation of homosexuality, marital rape, restitution of conjugal rights, the two-finger test in rape investigations.
  4. The plea argues that a court-mandated restitution of conjugal rights amounted to a “coercive act” on the part of the state, which violates one’s sexual and decisional autonomy, and right to privacy and dignity.
- **Biased Against Women:**
  1. Although the law is gender-neutral since it allows both wife and husband to seek restitution of conjugal rights, the provision disproportionately affects women.
  2. Women are often called back to marital homes under the provision, and given that marital rape is not a crime, leaves them susceptible to such coerced cohabitation.
  3. It is also argued whether the state can have such a compelling interest in protecting the institution of marriage that it allows a legislation to enforce cohabitation of spouses.
- **Not in Consonance with SC Judgements:**
  1. In the recent judgement of Joseph Shine v Union of India 2019, the SC has put great emphasis on the right to privacy and bodily autonomy of married women, stating that marriage does not take away their sexual freedom nor choice.
  2. If everybody is entitled to their bodily autonomy, choice, and right to privacy, how can a court mandate two adults to cohabit if one of them does not wish to do so.
- **Misuse of the Provision:**

1. Another pertinent matter to take into consideration is the misuse of this provision as a shield against divorce proceedings and alimony payments.
2. Often an aggrieved spouse files for divorce from their place of residence and their spouse retaliates by filing for a decree of restitution in their place of residence.

**Previous Judgements:**

- In the 1960s, the Punjab and Haryana High Court in the Tirath Kaur case, upheld restitution of conjugal rights, noting that “a wife’s first duty to her husband is to submit herself obediently to his authority and to remain under his roof and protection”.
- The courts, in a series of judgments in the 1980s, have supported the law, holding that the denial of marital and sexual life to the husband by the wife by refusing to permanently return to him is an act of both mental and physical cruelty.
- In 1984, the SC had upheld Section 9 of the Hindu Marriage Act in the case of Saroj Rani v Sudarshan Kumar Chadha, holding that the provision serves a social purpose as an aid to the prevention of break-up of marriage.
- In 1983, a single-judge bench of the Andhra Pradesh High Court had for the first time struck down the provision in the case of T Sareetha v T Venkatasubbaiah and declared it null and void.
  1. It cited the right to privacy among other reasons. The court also held that in “a matter so intimately concerned the wife or the husband the parties are better left alone without state interference”.
  2. The court had, most importantly, also recognised that compelling “sexual cohabitation” would be of “grave consequences for women”.
- However, in the same year, a single-judge Bench of the Delhi High Court took a diametrically opposite view of the law. In the case of Harvinder Kaur v Harmander Singh Chaudhry, the Delhi High Court upheld the provision.
- The Madhya Pradesh High Court in the Vibha Shrivastava case, noted:
  1. This orthodox concept of wife ( Dharmpatni, Ardhangini, Bharya or Anugamini) and expectations from her to subject herself to husband's wishes has undergone a revolutionary change with education and high literacy in women and with recognition of equal rights to women in the constitution and abolition of sex distinction in all walks of life.
  2. She is a partner in marriage with equal status and equal rights with the husband, and the marriage cannot be a tyranny.

**Way Forward**

- The debate over criminalising marital rape compels a relook at how the provisions of restitution of conjugal rights, though gender-neutral, place an additional burden on women and poses a direct threat to their bodily autonomy, privacy and individual dignity.
- While we talk about gender equality and the gender-neutral quality of the law, women are still at a disadvantage in Indian society and this provision capitalises on it.
- Dowry deaths are a plague on society and women being emotionally and mentally manipulated and tortured for dowry are aplenty.
- It's time for the Indian judiciary and society to shift to more progressive views starting with the progressive theory of marriage. Marriage is not built upon the ceremonies but upon the autonomy and freedom of two individuals who agree to share them with each other.

**SCIENCE & TECHNOLOGY**

**Negative Ion Technology**

Recently, the Authority for Nuclear Safety and Radiation Protection (ANVS), Netherlands issued a statement identifying various negative ion wearable products containing more Radioactivity than legally permitted.

**Key Points**

**About:**

- Negative ion technology embeds negative ions in personal products and is currently being advertised as a means to maintain health, balance energy, and improve well-being.
- This technology is used in certain silicone wristbands, quantum or scalar-energy pendants, and kinesthesiology tape. Negative ions are also made when sunlight, radiation, air, or water break down oxygen.
- The minerals that produce these negative ions often include naturally occurring radioactive substances such as uranium and thorium.
- It is believed that negative ions create positive vibes and uplift the mood. They show the various mental and physical health benefits, such as stress reduction, better sleeping, respiration etc.

whereas these ions may also act on pollutants, make them negatively charged and get them collected on surfaces.

**Related Concerns:**

- The radiation detected in some of these products has been higher than the background level and in some cases high enough to require licensing.
- The minerals used in products contain varying levels of radioactivity, it can be difficult for the consumer to know exactly how radioactive these items are. Radioactivity is the act of emitting radiation spontaneously.
- The products were found to contain radioactive materials and therefore continuously emit ionizing radiation, thereby exposing the wearer.
- Exposure to ionizing radiation can cause adverse health effects and wearing the products for extended periods could pose health risks that include tissue and DNA damage.
- Exposure can also cause severe harmful effects such as: Skin burns, Acute radiation sickness that causes cancer and hairfall, Temporary reduction in white blood cells, Possible chromosomal damage, Reduction in resistance to infection.
- IAEA (International Atomic Energy Agency) researchers found that the undergarment industry in Malaysia and elsewhere advertised that their “negative ion undergarments” contain tourmaline, monazite and zircon, all known to contain uranium and thorium.

**Efforts:**

- In “Radiation Protection and Safety of radiation Sources: International Basic Safety Standards” (2014), the IAEA considers that the frivolous use of radiation or radioactive substances in toys and personal jewelry or adornments, which result in an increase in activity, is unjustified.
- The IAEA published a specific safety guide titled “Radiation Safety for Consumer Products (2016).
- In India, the Atomic Energy (Radiation Protection) Rules, 2004 contains provisions consistent with those of the IAEA.

**ENVIRONMENT & BIODIVERSITY**

**Environment Management Plan for Najafgarh Jheel**

Recently, the National Green Tribunal (NGT) has directed Delhi and Haryana to enforce the Environment Management Plan (EMP) that the two governments have prepared for the rejuvenation and protection of the Najafgarh Jheel, a transboundary wetland. The implementation of these action plans is to be monitored by the National Wetland Authority through the respective State Wetland Authorities.

Earlier, the Union Environment Ministry had set up a three-member committee to prepare an integrated EMP.

**Key Points**

**The Environment Management Plan:**

- The top priority would be to notify the Najafgarh jheel and its area of influence under The Wetlands (Conservation and Management) Rules, 2017. The rules prohibit and regulate certain activities within wetlands and their ‘zone of influence’.
- It lists immediate measures to be taken including demarcating the boundary of the wetland using geo-tagged pillars, and commissioning a hydrological assessment and species inventory.
- Medium-term measures to be implemented in two to three years include in-situ treatment of major drains meeting the Najafgarh jheel, regular monitoring of the waterbird population, and relocating flow obstructions such as power sub-stations. The jheel is known to be a habitat for migratory and resident waterbirds.
- It also proposes a detailed estimation of sewage generation in the area considering 15 years of projected population, and identification of all drains contributing to pollution in the jheel.

**Najafgarh Jheel:**

- It is located in a natural depression in southwest Delhi, close to the Gurugram-Rajokri border on National Highway-48.
- The lake is largely filled with sewage from Gurugram and surrounding villages of Delhi. A portion of the lake falls in Haryana.
- The presence of 281 bird species, including several threatened ones such as Egyptian vulture, Sarus Crane, Steppe Eagle, Greater Spotted Eagle, Imperial Eagle and those migrating along the Central Asian Flyway has been reported at the lake.

**Related Concerns:**

- Once spread over 226 sq km, the water body straddling Delhi and Gurugram has shrunk to just seven sq km due to rampant encroachment.

1. According to Indian National Trust for Art and Cultural Heritage (INTACH), the revival of the jheel would yield around 20 million gallons of water a day to support a population of 3.5 lakh.
2. INTACH is a non-profit charitable organisation registered under the Societies Registration Act, 1860.
- Despite being the source of several benefits and sustaining habitats of diverse species, Najafgarh Jheel has been highly fragmented and transformed, built upon, used as a waste receptacle, and infested with invasive species.
- The Sahibi river, of which Najafgarh Jheel was the natural floodplain, has been converted virtually into a drain. The decimation of wetlands has exposed the neighbouring settlements in Haryana and Delhi to high risks of pluvial flooding and reduced groundwater levels.
- Recent constructions within the wetlands, while impeding natural wetland functions, are precarious owing to high seismicity and liquefaction within the region.

**Significance:**

- The Najafgarh Jheel is a critical natural infrastructure for the region, buffering floods, treating wastewater, recharging groundwater (with high potential for water supply to significant population) and providing habitat to numerous plant, animal and bird species.
- It can regulate the microclimate by virtue of being a heat and carbon sink. In fact, if the EMPs are properly and fully implemented, the jheel can become central to the National Capital Region's ability to mitigate the local effects of climate change.

**National Green Tribunal**

- It is a specialised body set up under the National Green Tribunal Act (2010) for effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources.
- With the establishment of the NGT, India became the third country in the world to set up a specialised environmental tribunal, only after Australia and New Zealand, and the first developing country to do so.
- The NGT Act provided a specialised role to the tribunal to act on issues where a dispute arose under seven specified laws (mentioned in Schedule I of the Act): The Water Act, The Water Cess Act, The Forest Conservation Act, Air Act, Environment Protection Act, Public Liability Insurance Act and the Biological Diversity Act.
- The NGT has five places of sittings, New Delhi is the Principal place of sitting and Bhopal, Pune, Kolkata and Chennai are the other four.

**Wetlands**

- Wetlands are areas where water is the primary factor controlling the environment and the associated plant and animal life. They occur where the water table is at or near the surface of the land, or where the land is covered by water.
- Wetlands are defined as: "lands transitional between terrestrial and aquatic eco-systems where the water table is usually at or near the surface or the land is covered by shallow water".
- 2nd February is World Wetlands Day. It was on this date in 1971 that the Ramsar Convention on Wetlands was adopted in Ramsar, Iran.

**PRELIMS FACT**

**Basal Stem Rot: Fungi**

Researchers from Kerala have identified two new species of fungi from the genus *Ganoderma* that are associated with coconut stem rot disease.

**Key Points**

**About:**

- The two fungi species are *Ganoderma keralense* and *G. pseudoapplanatum*.
- The butt rot or basal stem rot of coconut is known by several names in different parts of India: *Ganoderma* wilt (Andhra Pradesh), Anaberoga (Karnataka) and Thanjavur wilt (Tamil Nadu), to mention a few.
- The infection begins at the roots, but symptoms include discolouration and rotting of stem and leaves. In the later stages, flowering and nut set decreases and finally the coconut palm (*Cocos nucifera*) dies.
- A reddish brown oozing is seen. This oozing has been reported only in India.
- Once infected, recovery of the plants is not likely. Not surprising then, that this causes a huge loss: By some estimates made in 2017, in India, around 12 million people are said to depend on coconut farming.



- Another sign of infection is presence of shelf-like “basidiomata,” which are the fruiting or reproductive structures of the fungus, on the tree trunks.

**Fungi:**

- Fungi can be single celled or very complex multicellular organisms.
- They are found in just about any habitat but most live on the land, mainly in soil or on plant material rather than in sea or freshwater.
- A group called the decomposers grow in the soil or on dead plant matter where they play an important role in the cycling of carbon and other elements.
- Some are parasites of plants causing diseases such as mildews, rusts, scabs or canker.
- A very small number of fungi cause diseases in animals. In humans these include skin diseases such as athletes’ foot, ringworm and thrush.

**DAILY ANSWER WRITING PRACTICE**

**Qns. India is in the mid of an unprecedented expansion in the renewable energy sector. In this context, examine its negative impact on ecology and human livelihood. (150 Words)**

**Ans:**

**Introduction**

Global concerns about mitigating climate change and reducing greenhouse gas emissions have led to innovations in the energy sector. Across the world, 192 countries have announced policies to promote renewable energy and are looking to expand the installation of renewable energy. Renewable energy is considered as a win-win solution because it allows us to mitigate climate change without sacrificing economic development. Indeed, renewables are poised as the energy choice of the future.

**Body**

**India and her Mega renewable energy projects:**

- In 2015, under its international climate change commitments, India had promised to cut down its emissions intensity by 33-35% by 2030 and have 40% of its power, around 350,000 MW installed capacity, from renewable power.
- Consequently, India is racing to achieve a target of installing 175,000 MW of renewable energy power by 2022, a commitment it made as part of its global climate goals.
- At present, India’s installed renewable energy capacity is about 89,635 MW (as on 31 December 2020) only which means that in the next two years India needs to nearly double it to achieve the required target.
- But India is lagging behind the target of 40,000 MW of rooftop solar – which was the vital part of the 175,000 MW target.
- In such a scenario, the government is probably looking at developing large solar parks and wind parks to bridge the gap.
- Recently, the government in Gujarat cleared land allotment of about 60,000 hectares in Kutch region for the development of 41,500 MW mega solar and wind energy park that is estimated to attract investment of around Rs 1.35 trillion.

**Social impacts:**

- The following social benefits can be achieved by renewable energy projects: local employment, better health, job opportunities, and consumer choice.
- However, renewable power projects pose equal if not a greater threat to ecological biodiversity and cause wide-scale dispossession of lands and livelihoods.
- Large scale solar or wind energy farms require areas of contiguous land.
- The availability of land is contentious, especially in developing countries.
- Renewable energy projects, particularly wind and hydro, compete with local livelihoods, conservation interests and other development activities.
- Additionally, these projects often entail a process where development is usually prioritized over conservation, and livelihood activities.
- Shepherds, landless labourers and others depending on common lands for their livelihoods are neither being consulted before a project is set up nor are they compensated for their losses.
- This leads to slew of issues among the local people like land alienation, poverty, health issues, psychological issues, migration etc.

**Case study:**

- In India all development projects, including renewable energy, are required to gain consent from village level panchayats.
- In most cases, the certificate of consent from village level panchayats provides mere lip service.

- The project developers often use empty claims of providing electricity and economic benefits to impoverished, local communities in order to jumpstart the projects.
- There is no mechanism to monitor how much electricity will be provided and to how many households at the local level.
- A case in point is the 113 MW, Andhra lake Wind power project, promoted by the multi-national Enercon, on the outskirts of Bhimashankar Wildlife Sanctuary in the Western Ghats of Maharashtra.
- The villagers who live next to the project site don't have access to electricity, even though the project threatens their livelihoods and the rich biodiversity of the region.

#### **Ecological impacts:**

- One major complaint against the rapid clean energy transition is that it is usurping fertile agricultural land and massively impacting avifauna.
- In India, forest lands are the default choice of location for wind and hydel power project developers.
- It is cumbersome to negotiate private land deals and agricultural land needs to be converted to commercial land, in order to be procured for renewable energy development.
- In comparison, it is relatively easier for renewable energy projects to get approval from the federal and regional forest departments, because they are considered 'sustainable'.
- Setting up of a renewable energy project requires felling of trees, laying transmission lines and constructing a sub-station for relaying the electricity to the grid.
- The wind turbines are massive structures that need to be hauled to higher altitudes thereby significantly affecting the ecology of the landscape.
- In high rainfall areas, these changes could lead to landslides, floods, conflicts with local livelihoods, and massive soil erosion.

#### **Case Study:**

- In late 2020, a news report highlighted that the Gujarat government has plans to develop a 41,500-megawatt (MW) hybrid renewable energy park in Kutch.
- The state government has cleared the revenue department's proposal for allotment of 60,000 hectares of land – nearly the size of Greater Mumbai – for this project.
- The land finalised for the Kutch project is considered "wasteland" by the government but that may not be the case for the local people and could be an important area for them.
- In Kutch, there are many protected areas and they need to be preserved.
- If one looks at Kutch there is a huge wetland Shakoor Lake which falls in both India and Pakistan.
- This region is home to hundreds of bird species and its adjoining areas are also prime habitat for the vultures and flamingos.
- There are many studies by reputed institutes like Wildlife Institute of India that have warned against the death of birds due to collisions with power lines.
- The area is also part of the Central Asian Flyway.
- The Rajasthan High Court stayed work related to a solar energy park in Rajasthan over land issues after locals filed a case against the land allocated for the project which the Rajasthan government had termed as a wasteland.

#### **Measures needed**

- RE plants need to be allotted go/no-go zones where they can and cannot be set up, based on ecological and livelihood sensitivity of the regions.
- A fair and transparent public-hearing process is crucial for any development project.
- Independent EIA Authority and Sector wide EIAs needed.
- Creation of a centralized baseline data bank.
- Dissemination of all information related to projects from notification to clearance to local communities and general public.
- All those projects where there is likely to be a significant alternation of ecosystems need to go through the process of environmental clearance, without exception.
- No industrial developmental activity should be permitted in ecologically sensitive areas.
- Public hearings should be applicable to all hitherto exempt categories of projects which have environmental impacts.

#### **Way forward**

- Even as renewable power projects pose equal if not greater threat to ecological biodiversity and cause a wide-scale dispossession of lands and livelihoods, they are rarely critiqued.

- The state should take into account the precarity of local populations that depend upon natural resources for their livelihoods while encouraging renewable energy projects.
- Some probable solutions include giving greater powers to the village level panchayats, making EIA mandatory for all renewable energy projects and ensuring economic as well as electricity access for people who live in close proximity to renewable energy projects.
- As increasing number of practitioners, policy makers across countries are focused on fostering renewable energy; it is even more crucial to examine the complex and layered ways in which such projects are operationalized.

### DAILY QUIZ

Q1. The Global Environment Facility (GEF) serves as a financial mechanism for which of the following conventions?

1. Convention on Biological Diversity (CBD)
2. Convention on the International Trade in Endangered Species of Wild Flora and Fauna (CITES)
3. UN Convention to Combat Desertification (UNCCD)
4. Montreal Protocol on Substances that Deplete the Ozone Layer

Select the correct answer using the code below:

- a. **1 and 3 Only**
- b. 3 and 4 Only
- c. 1, 2 and 4 Only
- d. 1, 2, 3 and 4

Q2. Consider the following statements about National Commission for Protection of Child Rights (NCPCR):

1. It was set up under the Juvenile Justice (Care and Protection of Children) Act, 2015.
2. It works under the aegis of Ministry of Women and Child Development.
3. It is mandated to monitor and regulate in-country and inter-country adoptions.

Which of the given above statements is/are correct?

- a. 1 and 3 only
- b. **2 only**
- c. 2 and 3 only
- d. 1, 2 and 3

Q3. Academic Bank of Credit (ABC) was in news recently, is proposed under the

- a. National Policy of Education 1986
- b. Sarva Shiksha Abhiyan
- c. **National Education Policy 2020**
- d. None of the above

Q4. The quadrilateral security dialogue does not include:

- a. Russia
- b. **Germany**
- c. India
- d. Japan

Q5. The 'State of World Population Report' was released by which of the following?

- a. Population Matters
- b. Partners in Population and Development
- c. **United Nations Population Fund**
- d. International Organization for Migration