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Indian Nationalism

Syllabus

Indian Nationalism: Political Strategies of India's Freedom struggle: constitutionalism to mass Satyagraha, Non-cooperation, Civil Disobedience; militant and revolutionary movements, Peasant and workers' movements.

Past year UPSC questions

Year	Question
2020	Trace the role of militant and revolutionary movements in Indian national movement.
2020	Ambedkar idea on constitutionalism.
2019	National movement in India was anti-imperialist and increasingly radical in its socio-economic and political programmes. Discuss.
2018	Revolt of 1857 is a "Sepoy Mutiny" or "War of independence"
2017	Differentiate Moderate Nationalism from Extremist/Militant Nationalism in terms of their objectives and means.
2015	Comment on: Satyagraha as a Strategy in the Indian National Movement
2012	Comment on: Efficacy of Satyagraha as moral resistance colonial rule.
2011	Comment on: Significance of the Civil Disobedience Movement
2008	Comment on: "Swaraj is the culmination of Swadeshi and Sarvodaya."
2007	Political reforms must precede not follow social reform Tilak. Elucidate.
2005	Comment on: Views of Jaya Prakash Narayan on Total Revolution.
2004	Political reforms must precede and not follow social reforms (Tilak). Discuss.
2003	Comment on: Gandhis concept of Truth and Non-violence. Why was he opposed to modern civilisation?

Indian Nationalism

Nationalism is an abstract concept and a concrete reality. It is a positive consciousness of unity, homogeneity and national aspiration.

Nationalism in India

- Nationalism emerged in India because of colonial intervention in Indian social, economic, political and religious affairs. Nationalism in India is intimately connected to the anti-colonial responses.
- People began discovering their unity in the process of their struggle with colonialism. The sense of being oppressed under colonialism provided a shared bond that tied many different groups together and forged the idea of nationalism.
- Thus the Nationalism in India in its modern form emerged in 19th-century British India both in emulation of and as a reaction against the consolidation of British rule and the spread of Western civilization.

Scholar's view on Indian nationalism

Indian scholars and western scholars have presented different views regarding emergence of Indian nationalism.

Indian nationalism through the eyes of western Scholars

- **Marxist Scholars like Benedict Anderson (book-"Imagined Communities")** are of the view that Indian Nationalism emerged in India because of British rule. According to Anderson, Nationalism is not IMAGINARY and it is constructed through print media and railways etc. helped in its emergence.
- **Valentine Chirol** refuses Indian Nationalism. In his book **Indian Unrest** he asserted that **India was a 'mere geographical expression'**, and even this geography was forged by the British. Thus, for him, the term 'India' was no more than a **geographic creation by the British for administrative purposes rather than a nation.**
- **Another British scholar, Christopher Belle** has tried to find out the roots of Indian nationalism in ancient India. According to him, good government and patriotism always existed in ancient India.

Indian Nationalism through the eyes of Indian scholars

- **Radhakumud Mukerji** argues about the existence of nationalism in ancient Indian society, particularly, in Hindu culture. Mukerji states that ancient Indian society had a systematic bureaucracy, rules and laws. Big empires were setup by the kings like Chandragupta Maurya, Asoka and Gupta Kings. Trade and commerce developed during these empires.
- **Har Bilas Sarda** declared that 'the ancient Hindus were the greatest nation that has yet flourished in the earth'.
- **Lajpat Rai** asserted in his Young India that 'fundamentally India has been a nation for the last 2,000 years.
- **K.P. Jaiswal, in his book "Hindu Polity"**, stated that **India possessed everything which modern Britain could claim: big empires, enduring and successful republics, representative elective institutions, strong parliaments, a constitutional monarchy, and supremacy of Law above the executive authority.**
- **Aurbindo Ghosh** was Cultural Nationalist who held that India was always a nation. His Theory of Nationalism believes that nation is made up of Spirit, Soul, Faith, Religion and it never dies.

Factors that gave rise to Indian nationalism

The rise and growth of Indian nationalism can be explained through the various social, political economic as well as reactionary policies of the britishers creating the consciousness of Indian nationalism. Thus nationalism in India was the product of mix of various factors.

Political factors

- **Formation of Indian National Congress** in 1885 gave a political platform to various leaders who contributed in Indian national movement and to propogated the idea of India nationalism.
- **Political and Administrative unification of the Country-**
 - Brought people, especially the leaders, from different regions together. This was important for the exchange of political ideas and for mobilisation and organisation of public opinion on political and economic issues.

Economic factors

- **Understanding of contradictions in Indian and colonial interests** led to the people united against their exploitation and it was propogated through the **economic critique of British rule.**

Socio-religious and educational policies

- **It gave rise to middle class intelligentsia** which was an important factor which contributed in the emergence of nationalism in India.
- **The Charter Act of 1813** allowed Christian missionaries to come to India. And, in the same year, Colonial government allocated one lakh rupees for the development of Education in India. English became the medium of education which helped Indians to go to various countries and understand their social conditions.
- Reform movements sought to remove social evils which divided the Indian society; this had the effect of bringing different sections together, and proved to be an important factor in the growth of Indian nationalism.
- **British education policy**

Reactionary Policies and Racial Arrogance of Rulers

Racial myths of white superiority were sought to be perpetuated by the British through a deliberate policy of discrimination and segregation. Witnessing various reactionary policies, it became clear to the nationalists that justice and fair play could not be expected where interests of the European community were involved which led to the rise of Indian nationalism.

Rediscovery of India's past

- **Historical researches** –which has been highlighted by the extremist like Tilak and also nationalist painting like Bengal school of Abanindranath Tagore.

Impact of contemporary movements worldwide

- Rise of a number of nations on the ruins of the Spanish and Portuguese empires in South America.
- **National liberation movements of Greece and Italy** in general and of Ireland in particular deeply influenced the nationalist ranks.

Debate on Indian nationalism

It is a matter of academic debate whether the political activities in India from 1857-1947 can be called as manifestation of India nationalism and freedom struggle as Indian national movement.

Origin of the debate

- It originated in the work of the **J.S Mill** where he held that **India is not a nation but geographical expression**. There was no universal consciousness among the people living in India. Indian have been divided on numerous lines of caste, religion, ethnicity and language.
- This interpretation was supported by British Administrators like Lord Curzon, Herbert Risley, and V. Chirol.
- Historians belonging to Cambridge school like **Anil Seal**, in his book titled **“The Emergence of Indian Nationalism”** Seal asserted that there was no conflict between the British and the Indians or between imperialist rule and the Indian people. Instead, the main contradiction was among the Indians
- **Imperialist perspective represented by scholars like Percival spear and Lawis Napier held that Political** activities during this period was not a national movement. It was a **communal movement**. Nationalism was merely a cover. Leaders were not guided by any superior idea---like French liberty fraternity, equality and liberty --- but by animal instinct.

Nationalist Interpretation

- Historians like **R.C Mazumdar, Tara Chand** believes that it is wrong to call political activity as **communal movement**. Political activities do qualify to be called as national movement.
- Arguments to support nationalist view: -
 - There was a definite desire visible during these years among Indians to evolve as a nation. **The survival of India as a nation at present is testimony to the fact that there was desire to emerge as a nation.**
 - Despite hustle environment, enormous diversity and challenges, constitution has proved workable for different communities. It's not that Indians do not reflect the **spirit of accommodation**.
 - It is true that process of nation building is still continuing and there are many challenges like communalism , Regionalism sometime resulting into secessionist trends and ethnic violence for example in North east is still existing, despite these challenges each time the spirit of India survives and emerges more and more stronger.
 - The idea of India propounded by R. Tagore & the discovery of India by Nehru continues to inspire the Indians.

Revolt of 1857

- The cumulative effect of British expansionist policies, economic exploitation and administrative innovations over the years had adversely affected the positions of all sections of the Indians.
- The simmering discontent burst in the form of a violent storm in 1857 which shook the British empire in India to its very foundations.
- Although unsuccessful in throwing out British, the event remains an important chapter in Indian history.

Different perspectives on the Revolt of independence

Views differ on the nature of the 1857 revolt. It was a mere 'Sepoy Mutiny' to some British historians— "a wholly unpatriotic and selfish Sepoy Mutiny with no native leadership and no popular support", said **Sir John Seeley** whereas it was called as a war of independence by the scholar like **VD Savarkar**.

Revolt of 1857 as a war of independence

VD Savarkar wrote a book in 1908 titled *Indian War of Independence*. He was the first to call the 1857 revolt as the war for independence. He presents following argument in his book

- The annexation of Oudh and the case of greased cartridges were merely but small excuses to what was already in the process
- The rupture of local traditions, mockery of Indian customs and religion, not recognizing the adopted rulers (a tradition allowed by Hindu Dharmashastras), the promotion of Christianity – these were the main factors behind rebellion.
- The unifying feature of the war was the desire for swadharma and swaraj.
- **The presence of secret organizations illustrates that the revolt had plan and a purpose.** – these secret cells spread the message, awakening sense of purpose, pride and nationalistic consciousness. It involved a coded communication language, infiltration of garrisons etc.
- **Further, the restoration of Bahadur Shah was not a retrograde action**, but the consequence of nationalist re-awakening. A declaration that the long-standing war between Hindus and Mohammadens has ended (for the greater purpose of defeating British).

Savarkar believed that though the attempt was defeated, the spirit of nationalism has survived and it will lead to another war for independence in future.

Another discourse, calling the uprising to be a mere Sepoy mutiny, was led by British Historians.

- **Triggered by few disgruntled soldiers, the revolution was just an act of indiscipline within army.**
A normal occurrence in course of time for such a large organization.
- **It was sporadic, unplanned and occupied only parts of India.**
- Beyond overthrow of East India Company, the soldiers had no greater vision behind the revolt.
- **There was no unity of purpose**, while Sepoy wanted to restore Mughal rule, the inhabitants of Oudh wanted their Nawab back and so did the people of Jhansi. Peasants, on the other hand, just wanted reduction in their tax rates.
- **There was no central leadership to the revolt.** The feudal leaders like queen of Jhansi, Tantia Toppe, Kunwar Singh – all fought only to restore their former privileges.

Concluding line

The revolt of 1857 is not easy to categorise. While one can easily dismiss some views such as those of L.E.R. Rees who considered it to be a war of fanatic religionists against Christians or T.R. Holmes who saw in it a conflict between civilisation and barbarism, one cannot quite go so far as to accept it as a war for independence. It had seeds of nationalism and anti-imperialism, but the concept of common nationality and nationhood was not inherent to the revolt of 1857.

Political strategies of the Indian National movement

Constitutionalism

Constitutionalism is a political strategy based on the philosophy of liberalism. Liberalism is based on the assumption that man is rational and hence political ends can be achieved by rational dialogue. There is no need of the use of violence in achieving political aims.

In the political strategy of constitutionalism, we will analyse

- What is constitutionalism?
- What type of methods come under constitutional method?
- Critical evaluation of constitutionalism as a political strategy.

The idea of constitutionalism is itself an imported idea. It originated in Britain. It was introduced in India by colonial masters. British have introduced modern institutions like –

- Rule of Law
- Modern Judicial System
- Civil Services
- Assemblies

The Early Nationalists also known as the Moderates were a group of political leaders in India active between 1885 and 1907. Major leaders of the moderates were **Surendranath Banerjee, MG Ranade and Dadabhai Nauroji.**

They are known as "**Early Nationalists**" because they believed in demanding reforms while adopting constitutional and peaceful means to achieve their aims. The Early Nationalists had full faith

in the British sense of justice, fair play, honesty, and integrity while they believed that British rule was a boon for India. The Early Nationalists were staunch believers in open-minded and moderate politics.

British did not rule India only by use of coercive methods. They tried to build hegemony by doing certain good actions to Indians to gain legitimacy of British rule, they incorporated Indians into assemblies and later into Imperial Civil Service (especially after revolt of 1857)

- Early nationalist employed constitutional methods like –
 - o Bringing resolutions in assembly
 - o Sending memorials, prayers, petitions
 - o Appeals to justice
 - o Protests
- Thus, constitutional methods differ from direct actions –like Passive resistance, Non-cooperation, Boycott, Rebellions, Mutiny, Satyagraha, Civil Disobedience, Terrorism, Criminal actions, Subversions (aiding foreign invasions)

Extra Edge by OnlyIAS

Ambedkar view on constitutionalism

- He believed that **Democracy is the edifice on which constitutionalism survives**. If in any socio-political life the democratic system is lacking or deficient then constitutionalism cannot live
 - o He **called the British Government a bureaucratic government**. He proclaimed that Swaraj with its indigenous Constitution is the prerequisite to good governance and good life.
- **Ambedkar developed his ideas about constitutionalism in legal-social terms**. He was a constitutional expert who looked at legislature, a law making body, as 'a product of its social conditions' which could be limited by a federal order in a diversity-filled country like India
- **He also believed that Constitutionalism demands restricted powers**; extension of the power of the state is anathema to constitutionalism.
- **Ambedkar was opposed to the bureaucratic control of the politically organised society**, as during the age of diarchy, the ICS did not accept the control of Ministers
 - o Ambedkar enunciated the principle of democratic control of the bureaucracy which is a practice in the representative democracy.
- Ambedkar conceptualized constitutional order impregnated with constitutional morality as the edifice of good life for the people of India.

Why early nationalists adopted constitutional methods?

- **Ideological Reason** -Early nationalist believed that British rule is blessing in disguise. They had great faith in British sense of justice.
 - o M G Ranade thanked British for introducing rule of law, expressed that British rule in India is a divine intervention to eradicate the evils of misrule of the past.
 - o Ranade held that British rule is a source of inspiration, hope and confidence. He held that Indians are fortunate that they are ruled by the British.

- **Surendranath Banerjee** appealed to the British to introduce the institutions which are truly British in character so that Indians can rejoice in permanent union with British.
- **Dadabhai Nauroji** held that British are justice loving people. Indians have to communicate their demand to the British in 'reasonable manner'.
- **Pragmatic reasons** – According to Gokhale, constitutional methods were adopted according to the circumstances. Direct action required immense preparation and Indians were not ready for such action. **According to C. Y. Chintamani** before introducing direct actions, we have to address internal divisions and disunity.
- **Constitutionalism was the need of the time:** Direct action is possible only when masses are organized, unified and have common consciousness of the common end. The objective conditions of the colonial rule were bringing Indians together but the subjective consciousness of the common ends was missing. So constitutional method was the need of the time.

What early nationalist wanted?

The Early Nationalists wanted certain political and economic reforms with the view to unify the people of India.

Constitutional reforms

- Believing that India should eventually move towards democratic self-government, the Early Nationalists wanted a larger share in the governing of India. They did not seek immediate attainment of their goal as they feared that the government would suppress their activities. Instead they aimed at winning freedom through a gradual process.
- Their constitutional demands were:
 - Expansion of the legislative council and Legislative Assemblies, both Central and Provincial.
 - They demanded Indian control over the public purse and raised the slogan "No taxation without representation".
 - By the beginning of the 20th century, they demanded for Swaraj (self-rule) within the British Empire similar to the self-governing colonies in Canada and Australia.
 - Reformation and expansion of the legislative councils created by the act of 1861. They demanded an increase in the membership of these councils and all legislative and financial matters including the Budget should be submitted to these councils
 - A complete separation of the executive and judicial branches of administration.
 - Complete self-government modelled on self-governing British colonies like Australia and Canada.

Administrative reforms-

The Moderates made the following demands in the administrative sphere

- Demand for simultaneous Indian Civil Service examinations in England and India.
- Complete separation of the executive and the judiciary. They made this demand to protect Indians from arbitrary acts by the police and the bureaucracy
- Increase in the powers of the municipal bodies and reduction of official control over them
- Wider employment of Indians in the higher grades of administrative services.

Defence of civil rights

- The Early Nationalists defended civil rights whenever the British government tried to curtail them. Their struggle for freedom became an integral part of the national movement from the very beginning.
- The Early Nationalists demanded the Abolition of the Preventive Detention Act and restoration of individual liberties and right to assemble and to form associations.

- They also wanted the Removal of the restrictions imposed by the British Government on the freedom of speech, and the freedom of the press.

Criticism of constitutional methods

The methods used by the **Early Nationalists of prayer petition and protests** were seen as inadequate by critics who argued that they depended on the generosity of the British instead of relying on their own strength and challenging the imperialist might.

- **Aurbindo Ghosh** – Constitutional methods **reflect ‘intellectual bankruptcy of the leaders’**. Aurbindo Ghosh believed that Indians will have to strike at the roots of colonialism. That is – boycotting the foreign goods and adopting Swadeshi.
- **Pandit Nehru** – Constitutional methods will not work because India does not have constitutional government.
- **Tilak** – ‘Constitutional methods in front of alien bureaucracy is a political suicide’
- There are other criticism like –
 - They failed to realize contradiction between British and Indian interests.
 - Failed to bring the masses into mainstream and area of influence remained limited to urban educated elites.

How far the constitutional method was successful ?

- **Scholars like Bipin Chandra** held that, though moderates didn’t carry mass struggle, but they **carried struggle at ‘ideological level.’** They led the foundation of the most spectacular mass movement.
 - **He also** held that Moderates were ‘leaders as well as learners.’ There was no readymade critique of imperialism available for them to understand. (The first analysis of imperialism as colonialism came with the publication of Lenin’s book IMPERIALISM, THE HIGHEST STAGE OF CAPITALISM.) At the same time, British did introduce some good practices. All the features of the evil empire were not on surface.
- **M.G. Ranade**, held that “the memorials are not addressed to the British, they were addressed to Indians. Which led to the rise of nationalist consciousness among the people of India.
- **Economic critic of British rule by Dada Bhai Nauroji helped in Understanding of contradictions in Indian and colonial interests** which led to the people united against their exploitation.
- **Constitutional method was the need of the time:** Direct action is possible only when masses are organized, unified and have common consciousness of the common end. The objective conditions of the colonial rule were bringing Indians together but the subjective consciousness of the common ends was missing. So constitutional method was the need of the time.
- **GOKHALE** held that “We are at such stage that our achievements are bound to be less and our failures too frequent. We must contend or satisfy ourselves by serving our country by our failures. It is through these failures that the struggle will emerge”

Extremist phase

The second generation of the leaders represented by Lal Bal Pal (Lala Lajpat Rai, Bal Gangadhar Tilak, Bipin Chandra Pal) are called as extremists. They were dis-satisfied with the achievements of early nationalists. The use of the term extremists and militants is relative. These leaders appear extremist in their demands and methods in comparison to earlier leaders which now appeared ‘moderates’.

Objectives and strategy of the extremists

- There is not much basic difference between the two in terms of goals. The goal of both remained Swaraj. Swaraj even for all extremist leaders was 'dominion statues' and self-rule.
- The only difference was that they did not believe in the moderate's method of prayer and petitions. They believed that
 - Whatever reforms Britishers have introduced in the name of Indian council acts appeared too little and too late.
 - It failed to meet the aspirations.
 - No effective representation of Indians in law making, Indians only got gradual rights to ask questions on budget and to bring resolutions.
- **The main difference was in the strategy. Extremists favoured**
 - **Direct actions like passive resistance,**
 - **Boycotts foreign goods**
 - **Promote Swadeshi,**
 - **National education, national courts etc.**
- Tilak rejected the method of petition and asserted that Swaraj is the birth right of Indians. Tilak justified *prajadroh* i.e. the right of the people to resist the government which exploits.

Analysis of the extremist phase

- **Extremist phase was the next logical step after moderates.** Extremists created the base for the launch of Gandhi's mass movement.
- **Extremists have given the stronger theory of nationalism based on cultural symbols that also became the basis for the critic to the western model of nationalism.**

The strategy of mass Satyagraha

The idea of Satyagraha

- The idea of satyagraha **emphasized the power of truth.** Mahatma Gandhi believed that this dharma of non-violence could unite all Indians.
- It suggested that if the cause was true, if the struggle was against injustice, then physical force was not necessary to fight the oppressor. Without seeking vengeance or being aggressive, a satyagrahi could win the battle through non-violence. This could be done by appealing to the conscience of the oppressor.
- In Gandhi's terminology, Satyagraha-Truth-force-was an outgrowth of nonviolence. Gandhi practiced two types of Satyagraha in his mass campaigns.
 - **The first was civil disobedience,** which entailed breaking a law and courting arrest.
 - **The second form was non-co-Operation-**Non-co-operation meant refusing to co-operate with the opponent, refusing to submit to the injustice being fought. It took such forms as strikes, economic boycotts, and tax refusals.
- Scholars like **Bipin Chandra** held that **INM was one of the biggest secular, mass movements,** -person responsible for giving it a truly mass character is Gandhi. Gandhian techniques could bring Indians from different caste, communities, classes, urban areas, rural areas in the INM.

Origin and evolution of the method

- **Gandhi first conceived satyagraha** in 1906 in response to a law discriminating against Asians that was passed by the British colonial government of the Transvaal in South Africa.
- **In 1917 the first satyagraha campaign in India** was mounted in the indigo-growing **district of Champaran**.
- In the later phase after the initial success the method of satyagraha became the key tool used by Gandhi in every successive movements
- During the following years, **fasting and economic boycotts were employed as methods of satyagraha** in India, until the British left the country in 1947.

Non Cooperation movement (1920-1922)

Non-cooperation movement was launched on 1st August 1920. It was approved at the INC session of Nagpur

Reasons for the NCM

- **Curbing of civil liberties of Indians** in the name of curbing terrorist violence
- **Issues like** Rowlett act and Jallianwala Bag Massacre
- Anger with Hunter commission report Support of British public for general Dyer.
- **Economic distress-**
 - Shortage of food items
 - Distress in rural areas because of drought and epidemics.
- Dissatisfaction with Gol act 1919.
- Khilafat movement.

Main demand of the movement

- Favourable treaty for Turkey.
- Redressal of Punjab wrongs.
- Establishment of Swaraj.

It was first **truly Gandhian movement** at **pan India** level. Gandhi started the movement at that time because the political environment was conducive to start the movement

Movement started in the background of

- Rowlett Act and suppression of civil liberties.
- Extreme pain because of Jallianwala bag tragedy.
- Extreme disappointment and frustration because of the report of Hunter commission, and the massive support by British public for General Dyer.
- Economic distress because of 1st WW.
- Khilafat movement as an opportunity to bring Muslims together.

Strategy adopted during non-cooperation.

- Boycott of government schools, colleges and foreign clothes.
- No tax campaign in case provincial congress committee approves.
- Surrender of titles and honours.
- Opening of national schools, colleges, panchayat courts, promotion of Khadi, maintaining Hindu-Muslim unity, giving up untouchability.
- Strict adherence to non-violence.
- Congress to reach to the Grassroots level.

Analysis by Bipin Chandra.

- The real reason was that Gandhiji wanted 'graceful exit'. By this time, masses were getting exhausted. There were violent incidents in some regions like Mappila revolt in Malabar. Mappila revolt would have taken communal colour. Gandhi realized that because of Chauri chaura incident, government will get excuse to use massive force. If government uses force, people will get scared and it will be difficult to rebuild the movement.

Assessment of Non-Cooperation movement.

- There were also some **visible successes e.g.**
 - boycott of the visit of prince of Wales
 - boycott of foreign goods.
- **Other successful aspects of NCM which paved the base of true mass struggle**
 - Considerable success for Gandhi in gaining mass support
 - Economic boycott was very successful as the £ imports dropped by half.
 - Gandhian social movements which were associated with NCM also achieved fair amount of success.
 - Most successful area was boycott of foreign clothes
 - Some regions, no tax and no revenue campaign
 - Successful in bringing Muslims in INM.
 - Involvement of new social groups. Bipin Chandra calls it 1st great multi class movement of India.
 - Spread even in rural areas
 - It has shown the capacity of so called poor and dumb millions of India to participate in national movement.

View of INC on non-co-operation movement

- **Congress described the movement as a peaceful, legitimate protest for attainment of Swaraj**, by direct action rather than constitutional means. However, Gandhi called off the movement abruptly after Chauri Chaura incident in February 1922.

Reaction of congress to the withdrawal of the movement

- **Gandhi came under harsh criticism from congressmen. Leaders like Pandit Nehru** questioned the rationale of calling off the movement. Major criticism came from communists. They believed that Gandhi was fearful of masses acquiring power.

Conclusion

- **Movement was failure in terms of stated objectives and the promises made by Gandhi and Congress.** However, movement was **successful in the sense Gandhi got all that he wanted**
 - **Gandhi's wanted to test the capacity of masses** for struggle.
 - **He wanted to establish Congress as the party of masses** and not representing 'microscopic minority'.
 - **Gandhi wanted national movement to become mass movement.** It means multi-class movement rather than just limited to the middle classes.

Civil Disobedience Movement-(1930-1934)

It is a finest example of Gandhian strategy. NCM can be considered as mild in comparison to CDM, which was more provocative. CDM was direct challenge to the authority whereas NCM was just targeting the economic base of colonialism.

Rise of the movement

- In Calcutta Congress Session December 1928 the INC gave one-year ultimatum to government to accept dominion status or else civil disobedience to be launched for complete independence
- In 1929 at Lahore session
 - There was a call for Poorna Swaraj and congress urged masses for another national movement.
 - Congress adopted complete independence as its goal.
 - Congress decided to launch a civil disobedience movement.
- **Dandi March (March 12-April 6, 1930)**- Led by Gandhi; resulted in spread of salt satyagraha to Tamil Nadu, Malabar, Andhra, Assam, Bengal.

How the CDM was different from earlier strategy of Gandhi

- **NCM was not cooperating with the state, but civil disobedience was 'wilful disobedience'** of the authority. It is like questioning the legitimacy of the state.
- **CDM was more offensive than NCM.** Gandhi wanted Britishers to use force. It would have challenged the myth of 'benevolent despotism'. In case British state does not use force, it meant 'collapse of the state', if it uses force, it meant the collapse of its hegemony.
- **The strategy of CDM has put colonial state in dilemma**, expressed by Viceroy as 'dammed if you do and dammed if you don't.' It took them time to decide the arrest of Gandhi. Arrest of Gandhi led to more rigorous protests. Ultimately government had no option but to release Gandhi. **This has shown the victory of Gandhi.**
- CDM ended in **Gandhi-Irwin pact 1931**, where govt. had accepted almost all of the demands of Gandhi. It strengthened
 - Credibility of Congress
 - It has elevated Congress at an equal footing with govt.
- **CDM is also an example of Gandhi's proactive approach based on Gramscian idea of protracted movement in 2 stages.**
 - **War of position**
 - **War of manoeuvre**
- The CDM was the example for war on position where Gandhi tries to get in conversation with the government which put him on equal footing with the govt. and mobilise the masses on larger scale for the creation of pressure on the government.

Achievements of CDM and how CDM was unique in achievements

- The Civil Disobedience Movement of 1930-31, then, marked a **critically important stage in the progress of the anti-imperialist struggle.**
- This movement also has one more significance that for **Indian women**, the movement was the most liberating experience to date and can truly be said to have marked their entry into the public space.
- Though the Muslim participation was not similar to the Non-co-operation movement. The support that the movement had garnered from the poor and the illiterate, both in the town and in the country, was remarkable indeed and makes it inclusive and epitome of the strategy of Mass satyagraha.
- **The movement Covered even remote areas.**
 - In other areas, which weren't coastal areas, people have gone for non-payment of other taxes too.
 - For ex; in East India, no payment of chowkidara tax. In UP, Bihar - no revenue campaign was successful.

- **Gandhi was successful in puzzling govt. this time** - Govt. took time in arresting Gandhi. He was not arrested from the start of March. Gov. has proposed RTC. Congress did not participate in RTC. Ultimately govt. had to release Gandhi. IT was an unconditional release

Conclusion

The Civil Disobedience Movement caused a surge of nationalist feeling across the country that left the British government on edge. It widened the base of the freedom struggle. A large number of social groups like merchants and shopkeepers, peasants, tribal and even workers were mobilised by the leaders of the movement. Most importantly, it proved that Indians could resist violence with tolerance and courage. And Gandhi Irwin pact put the congress and the government on equal footing that was the major achievement.

Quit India Movement-1942

Known as most un-Gandhian because it was least controlled & most militant. Gandhi allowed the use of force for self-defence. Gandhi held that use of force is justified against the stronger and well equipped aggressor.

QIM was launched at the AICC meeting at Bombay on August 8, 1942 ratified Quit India Resolution called as resolution of Gowalia tank.

Why the QUIT India movement was launched?

- **Failure of Cripps Offer** an evidence of British lack of will to concede Indian demands
- **Public discontent against wartime hardships.**
- **A feeling of imminent British collapse.**
- Indian leadership's desire to **prepare masses for possible Japanese invasion.**

The special significance of the Quit India movement

- QIM is un-Gandhian in the sense that **up till now Gandhi was saying to hate the evil and not the evil doer.** Now Gandhi made the objective to throw the Britishers out.
- **Gandhi called for 'Do or Die'** but do not remain alive to see the country in the state of slavery. Gandhi held that nations survive when people are ready to die for nation. He mentioned that any delay in freedom will be injurious and humiliating.
- **QIM was the most spontaneous.** Once top leadership was arrested, grassroots leadership emerged on its own. Common man became his own leader. This is what Gandhi wanted. QIM reflect 'class in itself' converting into 'class for itself'. It was Gandhi's 'war of movement', the direct attack. Gandhi declared QIM as the last struggle of his life.
- **He made it clear that he will not call off the movement.** He permitted people to take the control of police stations if needed. He refused to condemn the violence by people, justified it in the light of bigger violence by the state.
- Congress in its resolution mentioned
 - Congress is not prescribing any restriction.
 - Everyone is free to choose his methods.
 - Don't bow heads and suffer stroke but pull the sticks and defend yourselves.

Why Gandhi permitted use of violence?

- Gandhi knew that any mass movement cannot be free from violence
- He knew that **there will be no birth without blood**

- Non-violence was just a part of Gandhi's strategy to bring masses within the fold of national movement
- According to **Francis Hutchins**, Gandhi was after all, a politician. He was a strategist. Once he could bring masses into movement, non-violence was no more needed

Response of other groups towards QIM

- Ambedkar called it 'mad venture of Gandhi'.
- M. N. Roy held that Gandhi will strengthen fascist forces
- Within Congress C Rajagopalachari peered that it will lead to uncontrollable anarchy.
- Hindu Mahasabha called it 'injurious to Hindu cause'
- Muslim League opposed it.

Conclusion

Scholars like Bipin Chandra like held that This was a last gamble by Gandhi and even worth risking violence He also held that Gandhian strategy was to put govt. in dilemma. Since it was a peaceful protest, if govt. uses force then also it is criticized. If it does not use force, the authority of govt. is challenged. No govt. can allow challenge to its authority. Ultimately govt. must use force. This will **challenge the benevolent despotism.**

Quit India movement as a war of Manoeuvre –Gandhi followed the Gramscian method 'protracted movement in 2 stages known as

1. **War of position** before arriving at a point of direct action and
2. **War of manoeuvre**/frontal attack.

The Quit India movement in this sense was the war of manoeuvre and movement before were the example of war of position. Because Gandhi called QUIT India movement as the last movement against the British to root them out.

Analysis of the strategy of Mass satyagraha by Mahatma Gandhi

- According to **Bipin Chandra**, Gandhian movement was protracted movement with active and passive phases.
 - **Active phases of Mass agitations**- Which includes the movements like Non-co-operation and civil disobedience.
 - **Passive phases of constructive programmers**- In which nationalist leaders were involved in the activities like development of co-operatives, Khadi, and the education programmers catering to the masses.
- **Gramscian and Gandhian movements** – Gramsci and Gandhi were **contemporaries** and show unique convergence in context of the strategy. They suggested **two-stage revolution in case of 'opaque states'**. (Where it is difficult to understand the exploitative nature).
- Hence the movement has to be 'protracted movement' known as
 - **War of position** before arriving at a point of direct action and
 - **War of manoeuvre**/frontal attack.
- Gandhi followed both – the strategy of war of position and war of manoeuvre during the different movement till independence.
- Gandhian strategy can also be called as **strategy of Struggle Truce-Struggle**. Which was a tactical and well thought strategy keeping in mind the limitation of the masses to be in tempo for the long period of time.

- **Gandhi's approach as 'proactive' rather than reactive.** Gandhian movements are proactive in the sense Gandhi never left ball in the courts of enemy. He forced enemy to respond. It was always initiative of Gandhi. The time and place, issue was all choice of Gandhi. Gandhi was offensive rather than defensive.
- **Gandhian strategy was based on understanding of mass psychology.** Masses have limited capacity to participate. Besides being a psychologist, Gandhi was master strategist. Gandhi knew when to start and when to call off the movement.

Militant and revolutionary

- The activities of revolutionary heroism **started as a by-product of the growth of militant nationalism.** The first phase acquired a more activist form as a fallout of the Swadeshi and Boycott Movement and continued till 1917. The second phase started as a fallout of the Non-Cooperation Movement
- **Young members advocated the adoption of European revolutionary methods** to counter British imperialism while mainstream Early Nationalists remained loyal to the crown, with their desire to regain self-government lacking conviction.
- After the decline of the open movement, the younger nationalists who had participated in the movement found it impossible to leave off and disappear into the background.

Causes for the rise of militant nationalism

The Early Nationalists failed to attain their objectives, giving rise to another group of leaders known as Assertive or Extremist Nationalists. Other reasons were like

- Younger elements not ready to retreat after the decline of open phase.
- Leadership's failure to tap revolutionary energies of the youth.
- Government repression left no peaceful avenues open for protest.
- They looked for avenues to give expression to their patriotic energies.

The revolutionaries in India were inspired by

- **Bankimchandra Chatterjee's "Anandmath".**
- Sanchindranath Sanyal's "Bandi Jeevan".
- Bhagwati Charan Vohra's "Philosophy of bomb"
- **Irish nationalist, Russian Nihilists** and Russian revolutionaries.

Strategies adopted by the militant nationalist

- Strike terror in the hearts of rulers.
- Arising patriotic feelings among people.
- Remove fear of authority.
- In case they are caught, trials of revolutionaries will act as propaganda by deed and not merely by words to inspire people.
- Based on individual heroic actions on lines of Irish nationalists or Russian nihilists and not a mass-based countryside struggle.

Revolutionary activities –

1st phase: till 1920.

- **Bengal –**
 - 1902—First revolutionary groups in Midnapore and Calcutta (The Anushilan Samiti)
 - 1904, VD Savarkar --Abhinav Baharat. Australian Samiti and Yugantar

- 1908—Burrah dacoity by Dacca Anushilan
- **Maharashtra**
 - 1879—Ramosi Peasant Force by Vasudeva Balwant Phadke.
 - 1899—Mitra Mela—a secret society organised by Savarkar brothers.
- **Punjab**
 - Revolutionary activity by Lala Lajpat Rai, Ajit Singh, Bhai Parmanand, Lalchand ‘Sufi Ambaprasad.
- **Revolutionary activities abroad**
 - 1905—Shyamji Krishna Varma set up Indian Home Rule Society and India House and brought out journal The Sociologist in London.
 - 1909—Madan Lal Dhingra murdered Curzon-Wyllie; Madame Bhikaji Cama operated from Paris and Geneva and brought out journal Bande Mataram.
 - Ajit Singh also active.
 - Berlin Committee for Indian Independence established by Virendranath Chattopadhyay and others.
 - Missions sent to Baghdad, Persia, Turkey, Kabul.
 - In North America, the Ghadr was organised by Lala Hardayal, Ramchandra, Bhawan Singh, Kartar Singh.

2nd phase started in 1920s

Why sudden increase in revolutionary activities

- Spread of Marxism and socialist ideas --inspired by soviet revolution --1917
- Upsurge of working class, trade unionism after the War.
- Rise of Communist & Socialist groups.
- The rise of a left wing, within the congress.
- Sudden withdrawal of the non-cooperation movement Questioned emphasis on non-violence.
- Not attracted to the parliamentary work of the Swarajists & also of No- Changers

Major activities in the 2nd Phase

- Establishment of HRA(Hindustan Republication association) in 1924. By Sachindra Nath Sanyal as an offshoot of Anushilan Samiti.
- Kakori conspiracy case in 1925 by revolutionaries like Ram Prasad Bismil, Ashfaqulla Khan, Rajendra Lahiri, Chandrashekhar Azad and other associates of them.
- In 1928, HRA was changed to HSRA (Hindustan Socialist Republican Association) by (Ram Prasad Bismil and his associates.
- Meerut conspiracy case in 1929-- 31 labor leaders were arrested on the charge of conspiracy
- Towards 1930s- growing influence of communist ideas and participation of women started.
- **Punjab Naujawan Bharat Sabha** was founded by **Bhagat Singh in 1926.**
- Chittagong armoury raid under Surya Sen.

Limitations militant phase

- The politics of the revolutionaries had severe limitations above all theirs was not the politics of a mass movement; **they failed to politically activate the masses or move them into political actions.**
- **Failed to evolve broader socio-economic goals** unlike moderates who have broader aim ranging from the political to socio-economic.

Overall analysis of the militant nationalist

- Revolutionaries have filled the vacuums whenever mainstream movement was in passive

phase. Revolutionaries displayed remarkable heroism, inspired youth to make sacrifices for motherland. They have given the lost pride of manhood to the Indians back.

- Revolutionaries could not get the support of INC, they lacked resources, mass base yet they could inspire youth by their individual acts.
- It is to be noted that even Indian women also played an active role in the revolutionary movements. We can give example of Pritilata Waddedar, Kalpana Datt, Madam Cama etc.

PEASANT MOVEMENTS

One of the worst sufferers of British rule were peasants. Economic policies resulted in the ruin of traditional handicrafts and other small industries leading to change of ownership and overburdening of agrarian land, and massive debt and impoverishment of peasantry. The economic policies of British government used to protect the landlords and moneylenders and exploited the peasants. The peasants rose in revolt against this injustice on many occasions.

The suffering and miseries of the peasants led to the resistance and revolution by the peasants across various time and space. Peasant struggles were directed against both

- Imperialists who were the real cause of misery of the population.
- Indigenous exploiter class like landlords and moneylenders.

Peasant movement in Indian **reflected 2 ideologies** –

- **Gandhian nationalist** who worked along with the Indian freedom leaders like ALL INDIA KISAN SABHA formed under the leadership of Sahjanand Sarasvati which also held a common session with congress for example Faizpur session in 1936.
- **Communist led movements** like Telangana movement in Andhra Pradesh and Tebhaga movement in Bengal.

General survey of the peasant movement

Peasant unrest was expressed from peaceful agitation to armed revolt. Various Kisan movements centred around demands of

- **Abolition of zamindari** (Santhal rebellion, Moplah, Telangana revolts)
- **Restoration of land grabbed by Zamindars or money lenders or forced cultivation of particular crops** (Indigo worker's revolts)
- **Opposition to money lenders** (revolts in Maharashtra, Punjab- Kuka movement, and in Assam.
- **Opposition to Beggar or forced labor**
- **Cheap access to water resources**
- **Incapacity to pay the high taxes or Crop failure** (Eka movement in UP and Kheda Movement in Gujarat. Similar movements in Rajasthan, Darbhanga - Bihar and Gujrat).

INC and peasant movement

1st Phase – Up till 1920s.

In the initial years the Congress ignored the urgency of improving the agrarian situation. It was only in the 1920s that Gandhi sought to convert the Congress organisation into a mass organisation and hence thought of bringing the peasants into the fold of the Congress.

Two important developments were in fact responsible for the establishment of contact between the peasants and the Congress in the late 1920s.

- The first was the constant banging of the Congress doors by the peasants
- Second was the need by the Congress to enlist peasant support for the national movement.

1930's onwards:

- INC started organizing peasantry. However, KISAN SABHAS and PEASANT PARTIES were emerging also because of role of communist and not entirely belong to INC. In 1936, ALL INDIA KISAN SABHA was formed under the leadership of SAHAJANAND SARASWATI.
- **AIKS and INC put the resolution together in the Faizpur session (1936) of the congress for the welfare of peasants.**

But The sub-altern school of historiography represented by –

- Ranajit Guha
- Gyanendra Pandey
- Prof. Irfan Habib
- Sumit Sarkar

Scholars highlighted the role of peasantry. Sub-altern historians question the nationalist narrative that Gandhi organised peasants. According to **Gyanendra Pandey**, peasant insurrection in India was 'Autonomous' of intervention of outside leaders. The way mainstream leaders dealt with concerns of peasantry was just marginal.

According to **RANAJIT GUHA**, INM led by Gandhi was primarily elitist. Gandhi wanted peasantry to make compromises with oppressors in the name of harmony between classes.

Limitations of the peasant movements in India

- **Lack of leadership and organised struggle similar to other countries like China**- Peasantry in India could not play any concrete role either for themselves or freedom struggle compared to peasantry in other countries like China. For example, **MAO** himself was from peasantry class and he was called the organic intellectual of peasantry. No such leadership emerged in India.
- **They are divided on caste and religion.** There are many examples of spontaneous, localised revolts. But no all India level organised effort. This is also one of the reason behind failure of land reforms after Independence.

Overall assessment of the peasant movement

Though the peasant movements were directed towards improving the agrarian structure and not aimed at uprooting the British rule from India they **created awareness among the Indians about the exploitative nature of their rule.** The peasant developed a strong awareness of their rights and asserted them in and outside the courts.

Successful aspects of peasants and INC

Peasant movement was not only confined to fulfilling the rights of the peasants but also influenced mainstream politics. for example, first session of All India Kisan Sabha was held along with congress session in 1936 and congress and AIKS adopted the common programme, the idea was to project the Kisan movement as a part of the national movement though maintaining its separate identity as a class organization.

Peasant movements also contributed towards the various reforms granted by the Britishers for example

- The Government appointed an indigo commission to inquire into the problem of indigo cultivation.
- The Deccan Agriculturists Relief Act was passed in 1879.
- Success of struggles such as Indigo movement, Champaran movements proved that British rule can be successfully challenged at the same time brought peasant issues to national recognition

In the Broader sense the peasant movement helped in the growth of nationalism. They are part of various movements for the freedom struggle like the non-co-operation movement.

WORKERS MOVEMENT

Indian working class had to face imperialist political rule and economic exploitation at the hands of both foreign and native capitalist class. After the advent of modern industry, Indian working class suffered from low wages, long working hours unhygienic and hazardous working conditions, absence of basic amenities etc.

Under these circumstances Indian working class movement became intertwined with political struggle for national emancipation

First Phase (1875-1918)

- **Early nationalists were indifferent to workers' cause** they **did not want a division in national movement on the basis of classes.** Also they differentiated between British and Indian owned factories and felt that laws favouring workers would hamper competitive edge of Indian factories.
- **As a result, trade unions were of a sporadic or ad hoc nature,** devoid of funds, regular membership, constitution, etc.
- **NM Lokhande has started 1st labour organisation in 1890 known as Bombay Mills hands association** which became a major step forwards towards the start of worker's movement in India.
- However, some prominent nationalist leaders like **B.C pal and G. Subramanya Aiyer** demanded pro-labour reforms.
- **During Swadeshi movement, workers participated in variety of political issues.** Various strikes were organized under the leadership of nationalists, however attempts to form trade unions were not very successful.
- **During WWI establishment of Soviet Union, formation of commintern** and emergence of Mahatma Gandhi lent new dimension to the movement of working class and the focus shifted towards addressing workers' concern.

Second Phase (1918-1924)

- **During 1918-1921, several organized labour union sprouted throughout the country's** industrial centres owing to economic miseries experienced by Indian working class by way of price rise, low wages, long hour of work etc.
- Recognising this **Gandhiji founded Ahmedabad Textile Labour Association in 1918**, which desisted workers from taking militant class struggle against capitalists by advocating for class collaboration.
- **Formation of national level All India Trade Union Congress (AITUC) in 1920** helped in coordinating all India level activities and aimed at organizing the workers on a national scale. Thus trade unionism accelerated and 1920 was the period of some of the biggest strikes in the country.

Third Phase (1924-1934)

- **Recognising this trend the British government passed Trade Union Act ,1926** with an aim of directing labour movement into safe channel by putting restrictions in political activities of unions.
- After following a period of dormancy working class activity was again spurred by emergence of left bloc in national movement under the leadership of **SA Dange, P.C Joshi etc.**
- **Strong communist influence on the movement** lent a militant and revolutionary content to it. For instance, workers participated in massive Simon Boycott demonstrations in 1927 and civil disobedience movement in 1930's.
- There was considerable **participation of workers in civil disobedience movement in 1930.**
- In early 1930 trade union movement reached a low ebb when disunity and dissensions rose to a great height.

Fourth phases (1935-1947)

- **Next wave of working class activity came with provincial autonomy and formation of popular ministry in 1937.** Congress ministries in various provinces gave a fillip to trade union activity. They were sympathetic to worker's demand and passes several favourable legislations.
- After following a policy of Industrial peace during initial years of WWII **workers even participated in post war national upsurges.** They organised multiple strikes on economic issues under the direction and leadership of various nationalist leaders.

Limitations of the working class movement

- Overall the limitations of the trade union movements have been **Multiplicity of trade unions** that made them weak and vulnerable to all forms of pressure by the British government.
- **Workers also remained divided on the lines of caste and religion.** Their situation has been worse than the peasants.
- **Trade unions were of a sporadic or ad hoc nature,** devoid of funds, regular membership, constitution, etc.
- **Trade unions also remained divided based on ideology** of Gandhian movement and communist ideology.

Conclusion

But participation of the working class helped in economic and political gains adding to the process of Indian nationalism and the freedom struggle in variety of ways. Nationalist leaders advocated for continuation of the struggle against imperialist domination by taking along the worker's class. **For e.g. C.R das advocated for incorporating worker's cause in the struggle for Swaraj** which made the

freedom struggle inclusive and hitting the major strength of British that was Industry and to become a strong force against the britishers.

Role of Women in Indian national movement

India national movement Ended the stigma since Aristotle of keeping women in 4 walls of the house and denying the political role of women.

The participation of women in politics during freedom movement has emerged a new area of research in historiography. For long, the contribution of women remained neglected. Despite being highly patriarchal society, women participated in the freedom movement in 'multiple modes'.

There are examples where women could successfully protect their states in comparison to male counterparts.

- **Example of Bimbai Holkar** who defeated British in guerrilla war.
- Rani Chenamma could protect the independence of her Kittoor state.
- **During the revolt of 1857**, Rani Laxmibai and Begam Hazarat Mehal played heroic roles.
- **Rani Gaidineliu**, a Naga woman who remained undeterred by colonial excesses and patriarchal barriers.

Women in INC and Gandhian movement

- Women got associated with INC.
- It was Gandhi who could use women resources in a skilful manner.
- Women played key role in the constructive programs, especially Khadi/Swadeshi.
- The prominent women leaders have been: Annie Besant, Sarojini Naidu, Bhikaji Kama, Sucheta Kripalani, Rajkumari Amrit Kaur.

Women and social reform during INM

Besides participation in freedom movements, there were women leaders who played role in social and economic empowerment of women: Pandit Ramabai, Durgabai Deshmukh, Basanti Devi, Suniti Devi, Savitri Bai Phule

There were many women organisations who played the important role. The two important women organizations were YWCA (Young Women Christian Association) of 1875, and All India Women Conference of 1927.

Women during the revolutionary struggle

- Women took active role during militant form of struggle also. We can give example of
 - Pritilata Waddadar- During Chittagong raid.
 - Kalpana Datt also helped Surya Sen during the raid of Chittagong.
 - Bina Das Who Shot point blank at Governor while getting degree
- Usha Mehta, a committed patriot set up a radio transmitter, called The "Voice of Freedom" to disseminate the "mantra" of freedom-war.

Critical evaluation of the role of women during INM

According to Sumit Sarkar-

- Though women movement in India was started by men, women have been active participant in Congress yet the leaders of congress were not full blooded liberals. **Women issue was never the core issue.**
- **Gandhi's movement was more using women as a resource for the mass movement rather than upliftment of women** as such. Like the concerns of peasantry, workers, women issues were also on the periphery.
- We can see the patriarchal approach of the mainstream leaders on women issues in the form of strong protest against Ambedkar Hindu Code Bill even by leaders like Dr. Rajendra Prasad.

Concluding lines

The story of women's participation in India freedom struggle is the story of making bold choices, finding themselves on streets, inside jail and in legislature

The contributions and the sacrifice made by the women of India will occupy the foremost place. They fought with true spirit and undaunted courage and faced various tortures, exploitations and hardships to earn us freedom.



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PERSPECTIVES ON INDIAN NATIONALISM

UPSC Syllabus

Indian Nationalism: Perspectives on Indian National Movement: Liberal, Socialist and Marxist; Radical humanist and Dalit.

Previous year questions on this topic

2021	Analyse the Marxist perspective of the nature of Indian national movement.
2019	Dalit perspective on Indian national movement. Discuss.
2016	Critically examine the Radical Humanist perspective on Indian National Movement.
2013	Comment on: Marxist understanding of India's freedom movement
2011	Comment on: Dalit perspective on Indian National Movement
2010	Comment on: Indian nationalism as depicted in S.N. Banerjee's 'A Nation in the making
2009	Comments on: Radical Humanism

Perspectives on Indian National Movement

Introduction

The Indian national movement was undoubtedly one of the biggest mass movement modern societies has ever seen. It was also popular and multi-class movement. It was basically the result of a fundamental contradiction between the interest of the Indian people and that of British colonialism. This anti-colonial ideology and critique of colonialism was disseminated during the mass phase of the movement which forged the ideal of Indian nationalism.

It is hard to think of any political phenomenon which remains so puzzling and diverse and about which there is less analytic consensus exists, also there is no widely accepted single perspective to describe the movement. No one has been able to demonstrate decisively either it was nationalism in true sense or a sense of cultural nationalism was created to fight the Britishers. Thus there exist various perspectives as diverse as the country and national movement itself was to describe the Indian national movement.

COLONIALIST PERSPECTIVE

View of colonialist scholars on India as a nation

- The colonialist view **rejected the idea of India as a nation**. The **diversity and disunity** of India were always emphasized by the colonialist thinkers as **justification for the colonial rule** which was considered to have united it.
- Thus, for them **the term 'India' was no more than a geographic creation by the British for administrative purposes**
- The strongest statement in this regard was provided **by Valentine Chirol** who, in his Indian Unrest (1910), asserted that **India was a 'mere geographical expression', and even this geography was forged by the British.**

- **JOHN STRACHEY**- wrote in his **book, India: Its Administration and Progress** (1888): “This is the first and most essential thing to learn about India – that there is not and never was an India or even any country of India, possessing according to European ideas, any sort of unity, physical, political, social or religious: no Indian nation, no ‘people of India’, of which we hear so much.”
- Right since early days of colonial rule, **India was depicted as a land of hostile and warring units. W.W. Hunter, Herbert Risley** and many others emphatically attempted to prove it by segregating and classifying the country in innumerable tribes and castes.

Colonial view on Indian national movement

Scholars like **Valentine Chirol, Anil seal, Lewis Napier** and British official like **Duffering and Curzon** have expressed their view on Indian national movement.

- **They don't recognise activities during this phase as national movements** they held that it was divided on numerous lines –Religion, caste, class and communities.
- **They asserted that** Political leaders of community or political activities **were not inspired by superior ideas or any grand idea** (like French liberty fraternity, equality and liberty) **but by instinct. Elites were competing to extract greater gains from British Raj for their communities and themselves. For them nationalism was merely a cover** Different communities used that for their own class interest.
- When the Indian national movement began emerging in the late nineteenth century and matured during the twentieth century, the famous British historians such a **John Strachey** and **John Seeley** asserted that **it was impossible to forge a nation in India** because **it has never had the characteristics of a nation nor it could ever have it in future.**
- According to these views, **there was no possibility of a movement which could be called national.** Even when the national movement became a Pan-Indian reality as a mass movement after the First World War, the colonialist historians questioned its effectiveness and attempted to highlight the religious, caste and linguistic divisions to deny it a national character.
- According to them, **India was a conglomeration of different and often antagonistic religious, ethnic, linguistic and regional groups** which could never be welded into a nation. Such contradictions among the communities culminated into the partition of the country which shows that there was not any superior ideal of nationalism guiding the national movement rather it was community interest.

NATIONALIST VIEWS

Nationalist views on Indian nationalism and national movement were formed **in response to the colonialist view.** They **strongly reacted against colonialist denigration** of India and its people

There are primarily two views among them: according to some,

- **Early nationalist** - The nationalist ideas have been adopted under the influence of the Western education and values.
- **Cultural nationalist** - Some others argue that they have been present since the ancient times.

Early nationalist

According to these writers, **Western education** and **ideas of liberty** were basically responsible for the formation of national consciousness.

Nationalist perspective is given by nationalist historians like **R.C Mazumdar, Tara Chand.** For them it is wrong to call political activity as communal movement. Political activities do qualify to be called as national movement.

R.C. Majumdar argued that ‘the conception of India as a common motherland was still in the realm of fancy. There was no India as it is understood today. There were Bengalis, Hindustanis, Marathas, Sikhs, etc. but no Indian, at the beginning of the nineteenth century’. He thought that it was the movements launched by the Congress which ‘gave reality to the ideal of Indian unity’.

- Other Arguments: -
 - There was a definite desire visible during these years among Indians to evolve as a nation. The survival of India as a nation at present is testimony to the fact that there was desire to emerge as a nation.
 - Despite hostile environment, enormous diversity and challenges constitution has proved workable for different communities. It's not that Indians do not reflect the spirit of accommodation.
 - It is true that process of nation building is still continuing and there are many challenges still existing, despite these challenges each time the spirit of India survives and emerges more and more stronger.
 - The idea of India propounded by Tagore & the discovery of India by Nehru continues to inspire the Indians.

Cultural nationalist

- When the national movement intensified, writers began searching for indigenous roots of such ideas. They asserted that India had been a nation since the earliest times. **Radha Kumud Mukerji**, in his ***Fundamental Unity of India*** and many other works, most famously put forward the **idea that India had been great and unified since ancient times**. According to him, **there had existed a sense of geographical unity of India since early times, and even the idea of nationalism was already present in early India.**
- Cultural nationalist like **Aurobindo Ghosh** was not satisfied with defensive approach of early nationalists. He rather established that India was not nation in the making but was a nation from the beginning. He combined nationalism and patriotism to challenge the British discourse.
- **Har Bilas Sarda**, in his ***Hindu Superiority*** (1906), declared that **‘the ancient Hindus were the greatest nation that has yet flourished in the earth’**
- **Lajpat Rai** asserted in his ***Young India*** (1916) that **‘fundamentally India has been a nation for the last 2,000 years’**.
- **Mahatma Gandhi** also visualized the India of the past and imagined an India of the future.
- **Subhas Chandra Bose**, in his **Indian Struggle**, argued that **India possessed ‘a fundamental unity’ despite endless diversity.**
- **Jawaharlal Nehru** also spoke about ‘unity in diversity’ and ‘a cultural unity amidst diversity, a bundle of contradictions held together by strong but invisible threads’.

Modern Scholars like **Shashi tharoor** in his books **“The Struggle for India’s Soul: Nationalism and the Fate of Democracy,”** and **“The Battle of Belonging - On Nationalism, Patriotism”** has discussed idea of nationalism and his perspective on Indian national movement.

For him Indian nationalism is the nationalism of an idea, the idea of an ever-ever land — emerging from an ancient civilization, united by a shared history, sustained by pluralist democracy under the rule of law.

His view on Indian national movement

- The struggle for Indian independence was, after all, not simply a struggle for freedom from alien rule. It was a shift away from an administration of law and order centered on imperial despotism.
- It is from this that the idea of ‘constitutional morality’ was born meaning a national commitment to pursuing desirable ends through constitutional means, to upholding and respecting the

Constitution's processes and structures, and to doing so in a spirit of transparency and accountability, free speech, public scrutiny of government actions and legal limitations on the exercise of power

He believes Indian nationalism to be based on principles of

- **Pluralistic nationalism** - expounds on the idea of India being a "magnificent experiment in pulling a vast, multi-lingual, multi-ethnic population out of poverty and misery through democracy and pluralism".
- **Civic nationalism**- He held that it is essentially, the nationalism that originates in the consent of citizens to participate in a free and democratic society of their own making. It is based on a few key pillars of representative democracy: constitutionalism, individual freedoms, liberal and democratic institutions.

Liberal perspective

- The liberal perspective on Indian national movement has been primarily dominated by the moderates who were prominent during the early phase of freedom struggle. Liberal concept of nationalism is that of the political nation. According to this theory, nationalism is a phase of history and nationalism emerge with modernisation.
- Leaders like **SN Banerjee, Gokhale, Dadabhai Nauroji** didn't accept imperialist interpretation. They held that India is a nation in making, for liberals the most important factor giving rise to Indian nationalism is the colonial rule.
- For Liberals nationalism requires some amount of modernization and rational thinking. Hence they purposefully kept the masses out of national movement. They knew masses were not ready to join the modern nationalist politics.
- Nationalism which was in infant state needs to be safeguarded. During this phase nationalist leaders and scholars restricted their criticism to colonial rule to the economic aspect.
- According to them, the task of the national movement was to unite Indians from various regions and different walks of life into a single nation based on their common grievance.
- **Liberal scholars** regarded **India as 'a nation-in-the-making'** which was also **title of the the Surendranath Banerjee autobiography**
 - They readily accepted that India was not yet a formed nation despite common history geography and the elements of a common culture. They also accepted that nation and nationalism had not existed in India in the past.
 - They acknowledged the incoherence of India as also the existence of multiplicity of identities in it. They also accepted that nation was not a natural or inevitable phenomenon but was a historical creation. But they denied that India could not become a nation.
 - They argued that India was old civilization, but a new nation. Even those leaders, who highlighted the superiority of Indian civilization and glorified India's past, recognized the modernity of the Indian nation.

Other Scholars like **TK ooman in his article – "Conceptualizing nation and nationalism in south Asia"** also believe that Conceptualizing nationalism based on ancient cultural paradigm is problematic. **He criticized those invoking religion as the symbol of national identity.** He explores the basis of nationalism as unification, territory and language. Thus he opposes the Indian being a nation from ancient time and believe that commonality and unification led to the rise nationalism in India.

View of liberals on British rule

MG Ranade

- He held that British rule inspires and give hope and confidence that temporary predicament will be over and rule of law will be established.

- British rule is divine dispensation which introduced Indians to the ideas of freedom. Unlike other imperialism, British imperialism thus provide hope for self-rule.

Dadabhai Nauroji

- Britishers are justice loving people. British rule will lead to the rule of law.
- Britishers will accept Indian demands subject to the condition we are able to convince reasonability of our demands.

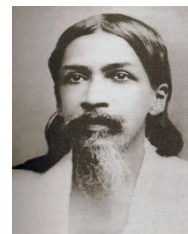
Criticism of the liberal perspective

- The first criticism came from the extremist or cultural nationalist. Cultural nationalist believed that we cannot attain Swaraj by praising British. Indian national movement should not be confined to elites.
- They held that India was a nation from the very beginning There has been a cultural and spiritual unity throughout the sub-continent.
- They even wanted to prove that Indian culture, values and civilizational achievements has been much ahead of the west.

Cultural nationalist like **Aurbindo Ghosh** was not satisfied with defensive approach of early nationalists. He rather established that **India was not nation in the making but was a nation from the beginning**. He combined nationalism and patriotism to challenge the British discourse.

Similarly, the other extremist leader "**Lajpat Rai**" also reject the view that Indian nationalism developed because of the British rule in his book **Young India (1916)** he asserted that 'fundamentally India has been a nation for the last 2,000 years' and nationalism was not the product of British rule.

K.P. Jaiswal, in his Hindu Polity, stated that India possessed everything which modern Britain could claim: big empires, enduring and successful republics, representative elective institutions, strong parliaments, a constitutional monarchy, and supremacy of Law above the executive authority.



MARXIST APPROACHES

The Marxist perspective on Indian nationalism is informed by a class approach related to politics and ideology. The basic position is that the nationalist leadership and the nationalist ideology objectively or subjectively represented the Indian bourgeoisie and wanted India to evolve on the path of independent capitalist development.

The Marxist historians have been critical of both the colonialist and nationalist views on Indian nationalism. They **criticize the colonialist perspective** for holding a discriminatory view on India and its people, while they also criticize the **nationalist commentators for seeking the roots of nationalism in ancient past**.

Basic tenets of Marxist perspective on Indian national movement.

1. Understanding of the role of economic factors and classes in the making of the nation as well as a movement.
2. Understanding antagonism between the interest of Indian people and interest of imperialist government.

3. Understanding whether Indian national movement was a movement of bourgeois class or a real mass movement. They held that even though various classes and groups were involved in the movement, it ultimately served the fundamental interests of the Indian bourgeois classes.
4. The Marxist paradigm is based on the **analysis of the modes of production and classes**. The Marxist historians perceive that **there was a basic contradiction between imperialism and the Indian society**. But they also **do not ignore the class-contradiction within the Indian society**. They try to explain these processes with reference to the economic changes under colonialism

Marxist view on Indian national movement through scholar's eyes

- The First work from Marxist perspective on the national movement has been by **Karl Marx** himself. He has given the **interpretation of the revolt of 1857** as a rebellion by the feudal class. Marx even considered British rule as a blessing for Indians.
- The next interpretation of Indian national movement from Marxist perspective comes from **MN Roy** In his book titled "India in transition" MN Roy criticized INC. He held that masses in India are ready to take power in their hands but congress is denying them of opportunity.
- **He was also critical of the Gandhi** and his methods struggle i.e., non-violence and satyagraha
 - After the withdrawal of NCM he held that Gandhi has no concern for masses.
 - **Non-violence is the perpetuation of violence on masses**. whenever he thinks that masses will take command he took back movement.
 - He became **doubtful of Gandhi's intentions** he believed that Gandhi was the **leader of the Bourgeoisie class** and the instrument of imperialists.
- **Other scholars like A.R. Desai** in his book *Social Background of Indian Nationalism* Views Indian national movement, as a movement dominated by the bourgeoisie. He held that although various classes, including the peasantry and the working classes participated in it, the basic character of the movement always remained bourgeois.
- **R.P. Dutta** held that the **revolt of 1857** 'was in its essential character and dominant leadership the **revolt of the old conservative and feudal forces** and dethroned potentates'. Dutta believed that the **Congress came into existence** 'through the initiative and under the guidance of direct British governmental policy.
- **Dutta argues that the class base of the Congress and the national movement changed** over the period. In the initial year's **Indian nationalism represented 'only big bourgeoisie** – the progressive elements among the landowners, the new industrial bourgeoisie and the well-to-do intellectual elements'. Later, in the years preceding the First World War, the **urban petty bourgeois class became more influential**. After the War, the **Indian masses – peasantry and the industrial working classes** – made their presence felt.
- **E.M.S Namboodripad (book – Gandhikum Gandhisavum)** Gandhi did involve masses, yet Gandhian approach was restricted mass struggle. Gandhi Wanted masses to work under the leadership of bourgeois class. However unlike other masses he believes that Gandhian program was not directed towards the interest of any particular class.

Critical analysis of Marxist perspective of Indian national movement

- Several Marxist historians began to differ from such restrictive paradigms for analyzing and understanding the Indian nationalism.
- **Bipan Chandra (book- Indian struggle for Independence)** clearly states the national orientation of INC. He called the movement truly inclusive and the largest mass movement ever. He was not

alone to disagree with, the national movement was analysed by the traditional scholars of Marxism.

- **Sumit Sarkar (book – Modern India)** have also analysed the traditional Marxist perspective on Indian national movements. He held that traditional Marxist analysis require more careful approach. It is true that programme of INC did not help masses as it should be However we cannot say that INC had any well planned strategy to take work in the interest of bourgeois class he also mentions that Indians were not so sharply divided they could not come together.
- He criticizes its contention that the moderate phase was dominated by the 'big bourgeoisie' while the extremist phase by the 'urban petty bourgeoisie'. Instead, he argues that 'a clear class differential between moderate and extremist would still be very difficult to establish, and was obviously non-existent at the leadership level'.
- **S.N.Mukherjee-** SN Mukherjee argued that Indian nationalism was a complex process with multiple layers and meanings, and cannot be understood by a reductionist class analysis. He pointed out the importance of caste as a crucial factor along with that of class, and showed that traditional languages of politics were simultaneously used with the modern ones, in organizing the national movement of India.

DALITS' PERSPECTIVE

The Dalit perspective represents an alternative imagination of Indian national movement majorly proposed by Ambedkar. Whereas INC and other mainstream nationalist leaders were concerned with uniting Indian society against the British, the Dalit intelligentsia strongly believed that without empowering Dalits from their any form of political freedom was not beneficial.

Scholars on Dalit perspective: Jyotiba Phule, Ramaswamy Naicker, Narayn Guru, Periyar, Dr. B R Ambedkar, T.N Nair, Kumaran Asan

Dalit perspective on Indian national movement

- Majority of Dalit intelligentsia was **critical of the lack of commitment on the part of the Congress to share power with Dalit's** and expressed **serious doubt about the commitment of upper caste leadership to bring social equality.**
- Their **notion of nationhood was based on abolition of existing inequalities** and also having **equal rights in every sphere of life.** To the mainstream nationalist leaders uniting Indians against the atrocities of the colonial rule and to compel the British to leave India was the major goal before the nation.
- **Gail Omvedt** in his book "**Dalits and the democratic revolution**" he has given importance to the various anti-caste movements going around at the time of Indian national movement. He believes that more than mainstream movement like movement by INC the anti-caste movements were more democratic and consistently nationalistic in nature.
- What is important to note in this context is that strong advocacy of Dalit intelligentsia for giving primacy to their socio-economic and political rights and not to anti-colonial struggle was primarily rooted in **their experiences of living in an unjust society.**
- **Valerian Rodrrigues** –In his book "**Dalit –Bahujan discourse**"- He believed that without ending the oppression and practices like untouchability the nationalistic rhetoric by the INC and other national leaders are rhetoric. He believed nationalism to be rooted in the collectiveness , fraternity , respecting each other's mutual rights and life of dignity to all.
- **Jyotiba Phule:** He praised British rule for the introduction of rule of law and Equality before law He held that British Raj is better than Pesewa raj. But he did point out the flaws on British rule as it was not working in the interest of Indian people in many spheres

- **EV Ramaswamy Naicker** : He is called as the Socrates of India. He called INC – as party of Brahmins. He was the founder of Justice party and started the Self-respect movement for the rights of oppressed class. He was a vocal critic of Brahmanism because of their dominance and their emphasis on Sanskritization of language.

Ambedkar View

- **He was Critical of INC and Gandhi**
 - He believed that Gandhi and INC are protector of the bourgeoisie and elite class and they have no concern for the Dalits.
 - **So he advised Dalits not to join** Indian national congress as it represent the party of upper caste.
 - He had no faith in Gandhian methods and congress commitments towards Uplifting the status of lower caste.
- He was **influenced by French revolution and its ideas of liberty**, equality and fraternity and wanted to make the Indian society and polity and society ruled on those superior ideas.
 - He held that we are going to enter into the life of contradiction where in politics there exist equality but there is no equality in the social and economic sphere.
- **Ambedkar rejected India as nation**
 - He held that India is not a nation rather a group of segmented communities and different warring groups resulting into the exploitation of one by another.
 - He believed in the idea of fraternity and held that political unity without social unity, India will just be a state and not a nation.
- **He demanded separate electorate for Dalits for the purpose that**
 - It will enable the Dalits to send its true representatives to the legislatures
 - Dalits must not be completely isolated politically from the majority. Isolation of the Dalits was the worst thing Ambedkar feared can happen from the majority community.
 - It is very important for a minority that it should have a representative in the legislature who would be under the obligation to stand up and support the cause of the Dalits and cannot neglect because of their low population and this can be ensured through separate electorate.
- **Ambedkar on nationalism**
 - Nationalism is **an expression of inner unity** a process of social assimilation. A dynamic desire to live as a nation.
 - Nationalism is negation of Casteism, communism and is rooted in Humanism.
- **Ambedkar** in his book “What **Congress and Gandhi had done to Untouchables**” held that political freedom has no meaning if we do not achieve the equal rights for all in the society. **Any movement which does not refer to abolish oppression and exploitation of dalits are of no importance.** He held that nationalism, nation-state and other such words are amorphous terms. **To Ambedkar, without ensuring equal rights of Dalits political freedom had no meaning.** Gaining political freedom from the British was not adequate to him unless the struggle for freedom ensured the dignity of life and equal rights to all its citizens.
- **Ambedkar on State socialism**
 - Ambedkar democratic socialism is a contrary to the Marxian socialism.
 - Ambedkar has given the concept of state socialism in his **memorandum titled “State and minorities”** submitted to constituent assembly. It comprised of following ideas
 - All citizens to be treated equally
 - No religion as state religion
 - Liberty of conscience all citizens
 - Reservation as compensatory justice
 - Minimum wages

- One man one value etc.

Concluding line

- Though Dalit leaders were skeptical of the Congress and other mainstream movement in India's struggle for freedom and believed them to be the protector of the elite class and neglect of Dalit class but the efforts made by nationalist leadership to create public awareness about the sufferings of Dalits and the initiatives through the anti-untouchability movement, constructive programs, temple entry movements etc. paved the way to empower Dalits. Mahatma Gandhi held that without eradicating untouchability root and branch the honor of Hinduism cannot be saved'.

SUBALTERN SCHOOL

- Sub-altern school is not satisfied with the traditional approach to history, which revolves around the elites. **Scholars like Ranajit Guha calls other perspectives as the blinkered view of history.** The way nationalist historians present the history of national movement, it appears as a **"spiritual biography of elites"**. It ignores the fact that there was an autonomous movement of masses. Protests by masses, peasants and workers has longer history than INC itself. Nationalist historians do not acknowledge the failure of INC to speak for the nation.
- The Subaltern historians, disenchanted with the Congress nationalism and its embodiment in the Indian state, rejected the thesis that popular mobilisation was the result of either economic conditions or initiatives from the top.
- **Gyanendra Pandey**, in **'Peasant Revolt and Indian Nationalism'** argues that peasant movement in Awadhi arose before and independently of the Non-cooperation movement. According to him, peasants' understanding of the local power structure and its alliance with colonial power was more advanced than that of the Congress leaders
- **Bhiku Parekh** in his article **"Colonialism Tradition and Reform: An analysis of Gandhi's Political Discourse"** criticised the elitist approach of Indian national movement states that Gandhi looked at himself as Yugh-Purush. Gandhi reduced Indian tradition as his resources. There was a limited role of masses in his strategy. He wanted masses to remain as his devotees. Gandhi projected his political programme as a spiritual struggle to create the ideal state.
- **Thus the Sub altern school believed in the popular autonomous domain which was opposed to the elite domain of politics.** This domain of the subaltern was defined by perpetual resistance and rebellion against the elite.

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Partha Chatterjee View on Indian nationalism

PARTHA CHATTERJEE belongs to the **subaltern school of historiography**. He considers nationalism in colonies as "different yet derivative discourse". **In his book "Nationalist thought and colonial world; a nationalist discourse"** he suggests that the nationalist ethos in colonies have not only been heavily influenced by the western notions but also reflect ambivalent approach. Nationalism shares thematic similarities with the western form. It accepts hegemony of west. However, reflects problematic approach also calling for practices to end colonialism.

According to him, nationalism has evolved in three stages:

- Moment of Departure: Reflected in Bankim Chandra Chatterjee: it means nationalist consciousness was constructed through the hegemonising the influence of post enlightenment rationalistic thought
- Moment of Maneuver: Gandhian stage: Gandhi has mobilized masses in the support of his movements.
- Moment of Arrival: Nehruvian approach: when colonial state embraced the western model

In his **other book "NATION AND ITS FRAGMENTS"** he argues, that there were two domains:

- Material domain: the outer world
- Spiritual domain: the inner world

Intelligentsia used both domains. Thus according to him, Indian nationalism represents an ambivalent character as it is indebted to both the western (materialistic/ scientific) tradition and the Indian (spiritual) tradition.

Partha Chatterjee has critiqued this derivative discourse of nationalism. According to him, nationalist ideas in India developed in the private and more spiritual domain shielded from the dominant western discourse in the public sphere. The 'construction' of the imagined community has also been questioned. Elements of ethnicity or race cannot be the products of shared imagination alone.

SOCIALIST PERSPECTIVE

Socialism in India is a result of influence of Russian revolution. It appealed to youth in India. Leaders like Nehru, Bose introduced socialism in Congress. Some radical congressmen, like JP Narayan, Acharya Narendra Dev and Minu Masani, led the foundation of Congress Socialist Party in 1934. They didn't oppose the Congress but only wanted to radicalize the programme of Congress. They were also influenced by Gandhi.

Prominent Scholars: Nehru, SC Bose, JP Narayan, Minoo Masani, Acharya Narayan Dev, Ram Manohar Lohiya

Socialist perspective on Indian national movement

- **Jaya Prakash Narayan: Book: "Why Socialism?" (1935).** He was influenced by Marx. He found Gandhian programme utopian. He alleged that Gandhi is purposefully ignoring the contradictions present in India society. He was convinced that India needs socialist revolution. Any freedom can be realized only in the atmosphere of economic equality.
- **Acharya Narendra Dev in his book titled – "Socialism and National Revolution".** He was extremely critical of Gandhi. He believed that Gandhi's approach of reconciliation between classes is impractical. He did not like Gandhi's overtly religious approach, he did not accept Gandhi's sharp criticism of modern civilization.
- **Ram Manohar Lohiya**-He has given socialist interpretation of the Gandhian programme. He gave socialism in "Asian context" he also called for the 7 types of reolution and he gave the concept of 4 pillared state.
- **Nehru - Nehru, wanted the country to accept the goal of socialism for free India. t. At the Lahore Session of the Congress (December 1929) in his Presidential address, Nehru said: I must frankly confess that I am a Socialist and a republican. On Indian national movement he held that India's immediate goal should be considered in terms of the ending of the exploitation of her people.**

- Politically, it must mean independence and the severance of the British connection, which means imperialist domination
- Economically and socially it must mean the ending of all special class privileges and vested inter
- Nehru adopted the vision of socialist pattern of Indian society at Awadhi session of INC.
- **Suhas Chandra Bose** - Subhash Chandra Bose was a believer in socialism. Thus, a kind of social revolution had been envisaged by Bose. He asserted that bondage of any kind, economic or political, robs men of their freedom and gives rise to inequalities of various kind. Thus The national movement along with ending the foreign rule should also aim at eradication of inequality among the people.
- Socialist preferred to work within congress rather than opposing congress. Socialist program included:
 - Primary goal is achievement of political freedom
 - Political freedom not an end but means to an end
 - They will continue to bring congress under socialist orientation

Conclusion

- They were comparatively successful in bringing in bringing socialist perspective in programme of congress. INC socialist maintained the organic link with the congress. They accepted the leadership of Gandhi despite ideological difference with Gandhi.

RADICAL HUMANIST PERSPECTIVE

Radical humanist perspective is associated with **MN Roy**. He published his thoughts in New Humanism-A manifesto. He said radical humanism was called radical because it rejected many traditional political and philosophical assumptions and humanism as its focus was entirely on the needs and conditions of human beings.

Radical humanists did not articulate a clear perspective of Indian National Movement. However, their philosophical and ideological orientations help us understand their perspective.

We see the transition in his thinking of MN ROY and perspective on national movement. that can be analysed under following heads.

- Debate with **Lenin on colonial question** - on colonial question he told that masses are capable of mass rebellion.
- His analysis of **INC and programme of Gandhi till 1930** - **MN Roy considered that Congress was a bourgeois party and Gandhi was a bourgeoisie leader.**

Radical humanism

- In this phase, he become concerned with the goal of freedom of individual. He considered political independence is a necessary intermediate step but not an end in itself.
- Any collective ego including nation should not suppress individual.
- **He proposed radical democracy and cosmopolitan union of free individuals.** He suggested organisation of society on principles of secular morality.
- **He believed that Indian nationalism also has cosmopolitan appeal for the emancipation of people exploited under the foreign rule.**
- He believed that Indian national movement has a vision for radical democracy in future India.

Radical humanist movement aimed at establishing radical democracy. It means party less democracy and moral policies. His radical democracy stood for

- Abolition of feudalism
- Nationalization of land
- Nationalization of industries Protection of rights of minorities
- Compulsory education
- Purification of politics

How to bring the radical democracy or way for radical humanism?

- He did not favour violent revolution or top-down approach. He suggested revolution from below.
- He believed that main method will be education of masses. Revolution does not bring everlasting changes.
- He believed that democracy can't be sustained without democratic culture even when democratic institutions are introduced. So long people running these institutions are not democratic, there will be no real democracy
- Radical humanism and radical democracy comes near to Gandhian views. However, there are basic differences in the perspective of these two leaders of modern India. M.N. Roy stood for science and modernity. Gandhi for religion and tradition.

Radical humanists placed individual at the centre of their philosophy. Individual was to be on and in himself. Society and all other things were means to achieve this end. They were against supervisions and supernatural power. They advocated

- Rationalism
- Democracy
- Scientific approach to politics.

Sudipto Kaviraj mentions **M N Roy** as a "remarkable failure" and one of the most unfortunate leaders and political philosopher. We see transition in his ideas. He started as a revolutionary but ended with radical humanist propagating the philosophy of new humanism. There was no consistency in his philosophy.

He charges M.N. Roy for committing the guilt of heteronomy

- Heteronomy means application of the experiences of the history of some other country without understanding the differences Roy tried to apply the example of history of Germany w.r.t Indian national movement.

Conclusion for every perspective

No historiographical attempt to paint a complete and general picture of the national movement is ever completely successful. For a nuanced understanding of an event like the Indian national movement, we have to keep our minds open to acknowledge the interplay of various forms of struggle and resistance, with varied social backgrounds and differences in paths and particular goals, working at the same time.

Making of the Indian Constitution

Syllabus - Making of the Indian Constitution: Legacies of the British rule; different social and political perspectives.

Previous year Questions

2021	Mention the founding principles that define India's constitution.
2021	The constitution of India is a product of historical process, rich with constitutional antecedents." Comment.
2020	Answer in 150 words. Indian constitution makers concern on Social Inequality.
2019	Unity and integrity of India was perhaps the single uppermost factor in the minds of the Constitution makers. Comment.
2018	Comment on: Indian Constitution is a "Lawyers' Paradise'. – Ivor Jennings
2010	Comment on: "The Constituent Assembly was a one party body in an essentially one party country. The Assembly was the Congress and the Congress was India." (Granville Austin)
2008	Discuss the dominant external and internal influences in the framing of the Indian Constitution.
2005	Explain the federal scheme under the Government of India Act, 1935. Why could this scheme not be implemented?

Making of the Indian constitution

What is Constitution

A constitution is a set of laws and rules setting up to machinery of the government of a state and which defines and determines the relations between the different institutions and areas of government, the executive, the legislature and the judiciary, the central, the regional and the local governments.

A written constitution is essentially a basic expression of the ideas and organization of a government that is formally presented in one document.

Like every other Constitution, the Indian Constitution also seeks to establish the fundamental organs of government and administration, lays down their structure, composition, powers and principal functions, defines the inter-relationship of one organ with another, and regulates the relationship between the citizen and the state, more particularly the political relationship. The states have reasserted certain principles of law through written Constitutions.

Functions of the constitution

The Constitution is a political structure, whether it is written or not and followed or not. They have several functions.

1. **Expression of Ideology:** it reflects the ideology and philosophy of a nation state.
2. **Expression of Basic Law:** Constitutions present basic laws which could be modified or replaced through a process called extra ordinary procedure of amendment. There is a special law also which

usually focus upon the rights of the citizens, for instance, rights concerning language, speech, religion, assembly, the press, property and so on.

3. **Organizational framework:** It provides organizational framework for the governments. It defines the functions legislature, executive and judiciary, their inter-relationship, restrictions on their authority etc.
4. **Levels of Government:** Constitution generally explains the levels of different organs of the Government. Whether it is federal, confederal or unitary will be described by the Constitution. They delineate the power levels of national and provincial governments.
5. **Amendment provision:** As it would not be possible to foretell all possibilities in future with great degree of accuracy, there must be sufficient provisions for amendment of the Constitution. It should contain a set of directions for its own modifications. The system might collapse if it lacks in scope for modification. Inherent capacity to change according to changing times and needs help any system to survive and improve.

Philosophical basis of constitution

1. The human being, according to the great **Greek Philosopher Aristotle**, is a political and social animal. Either human being or a family cannot survive in isolation. It became necessary for man to organize himself into communities and societies. With the growth of population, these societies grew and multiplied and some form of rules and regulation was needed. Out of this arose the need of the constitution.
2. In political theory, or political philosophy, **John Locke** refuted the theory of the divine right of kings and argued that **all persons are endowed with natural rights to life, liberty, and property and that rulers who fail to protect those rights may be removed by the people, by force if necessary** and establish the rule of law or rule of constitution.

The Indian constitution

The Indian constitution is considered a **revolutionary document** which was created not just to provide a book to rule / govern the nation but to change the life of millions of people and give them a life of dignity which was inherent from the idea of Swaraj during the Indian national movement. Thus it was based on various principles which can ensure the fulfilment of the aspirations of people of India as well as ensuring India's rightful position in the world.

Gautam Bhatia in his book – **"The transformative constitution"** held that Indian constitution was transformative in the sense that

1. It transformed the legal relationship between **the individual and the State**. It transformed the subjects of a **colonial regime into citizens of a republic**.
2. It replaced the colonial logic of governing and administering a population with the democratic logic of popular sovereignty, public participation, and limited government.
3. Apart from the guarantee of universal adult franchise and the structures of parliamentary democracy, this transformation was expressed through the fundamental rights that embodied citizenship and made democracy possible.

Thus the Indian constitution is the combination of the various principles inspired by India's rich tradition, India's struggle for independence as well as the vision of our founding fathers like Mahatma Gandhi, Ambedkar, Sardar Patel and Nehru which has been reflected in the provisions of the constitution.

Founding principles of the Indian constitution

1. The most basic founding principle of Indian constitutionalism is **the Rule of law or constitutionalism**- Which has been the continuation from the British rule when it was not in substantive form and one of the main demands during the freedom struggle movement.

Constitutionalism is a **doctrine that a government's authority is determined by a body of laws or constitution**. Constitutionalism is often associated with the political theories of **John Locke** and the founders of the American republic, that **government can and should be legally limited in its powers, and that its authority** or legitimacy depends on its observing these limitations.

2. **Principle of liberalism** as reflected in the form of govt. we have adopted that is parliamentary democracy and in the chapter of fundamental rights.
3. Next founding principle is the unique **Indian model of secularism** which is different from western model which separates the state from the religion. The Indian model is based on **principled distanced models as held by the Rajeev Bhargava**.
4. **Concept of welfare state and democratic socialism** which is found in PART IV of the constitution in the form of directive principles of the state policy.
5. **Principle of multiculturalism** - Multiculturalism –we provide special protection to the rights of the minorities reflected in the provisions like Article 29 and 30 of the fundamental rights.
6. **Vision of our founding fathers like Mahatma Gandhi**-reflected in DPSP in the form of Panchayati Raj, Cottage Industries, the concept of co-operatives etc.

Indian constitution has also been influenced by the biggest political as well as social movement of India i.e. **Indian national movement**. The demand made by the nationalist during the freedom struggle made the base for the independent Indian constitutional provisions like

1. **Nehru report** which recommended the provisions like Bill of Rights, Assigning Equal rights to men and women as citizens and Formation of a federal form of government with residuary powers in the hands of Center which became the basis for the Independent Indian constitution.
2. **The INC session of 1931 Called Karachi session** brought a resolution on fundamental rights to protect the civil liberties and the Resolution for the first time put forward a list of socio-economic principles/rights that the Indian state had to adhere to.

As mentioned in the preamble, the basic idea behind these principles has been to promote unity and integrity and to give life of dignity and Justice to the people of India.

It also has objective of making the independence of Indian not just a transfer of power but to transform the traditional Indian society into the modern democratic society based on the principles of equality, liberty and fraternity as well as protection of political and socio-economic rights of the people.

Constituent Assembly

Constituent Assembly: A sovereign Body

- A Constituent Assembly is a body constituted with a specific purpose of drawing up a Constitution and dissolves on the completion of its task. The formation of a Constituent Assembly is on acknowledgement of sovereignty as well as the right to self-determination of a people
- The task of the Constituent Assembly was **framing of the Constitution for Independent India**. The search for providing a legal frame and incorporating important systems relevant to India. The framers looked forward to international documents, progressive democratic constitutions, and constitutional doctrines prevailing in Britain.
- The Constituent Assembly might have owed its legal existence to the colonial regime, but one of its first acts was to declare itself sovereign, and **frame the Constitution on its own terms**.
- The Constituent Assembly became **sovereign body after Indian Independence Act, 1947** was enacted and it was freed from limitations and restrictions imposed by British Parliament earlier under different Acts and plans.

Vision of constituent assembly of India

1. The Indian Constitution is based on the philosophy of evolving an **egalitarian society** free from fear and bias based on **promoting individual freedom** in shaping the government of their choice. The whole foundation of **constitutional democracy** is building a system of governance in systematic machinery functioning automatically on the wheels of norms and regulations but not on individual whims and fancies. It is easy to dream such a system of rule of law than framing a mechanism for it.
2. For **Granville Austin**, the Constituent Assembly aimed at creating a 'seamless web' **constituting unity, social revolution** and **democracy** through the Constitution.
 - i. The goal of **a social revolution** was to be driven by the provisions of the Directive Principles of State Policy, present in Part IV of the Constitution. These provisions, even though non-justiciable, lay down the ways in which the Indian State was to become a Welfare State by bringing about economic and social democracy.
 - ii. The **democratic aspect of the seamless web** is buttressed by **representative government** under adult suffrage; Fundamental Rights under Part III which allows inter alia equality under law and personal liberty; and an independent Judiciary.
 - iii. Additionally, safeguards to minorities, assistance to under privileged groups and eradication of oppression of Scheduled Castes and Tribes were also reinforced to strengthen democracy.
3. **Jawaharlal Nehru**:
 - a. The constituent assembly is not merely a body of representative, but a nation on the move which has a huge task of creating a new future of India throwing away the shell of its past political and social structure and fashioning for itself a new constitutional structure and future of its own making.
 - b. "The first task of this Assembly (Constituent Assembly) is to free India through a new Constitution, to feed the starving people and clothe the naked masses and to give each Indian the fullest opportunity to develop himself according to his capability
4. **Rajiv Bhargava** – suggests that vision of the constitution should be studied in Three ways
 - a. **As a politico-legal document**
 - b. **Constitution as a document shaping social relations**
 - c. **Constitution as a political history exemplified by Granville Austin**
5. He emphasizes on **politico-theoretical reading of Indian constitution**. Because existing works are deficient on many grounds

- a. Insufficient elaboration of the conceptual structure of the Constitution;
 - b. Structure of the ideals embedded in the Constitution are inadequately grasped and
 - c. Disconnect in the reading of the Constitution and the Constituent Assembly Debates.
6. Mr. **Justice H. R. Khanna** in his 'Making of Constitution said: "The framing of a Constitution calls for the highest statecraft. Those entrusted with it have to realize the practical needs of the government and have, at the same time, to keep in view the ideals, which have inspired the nation. They have to be men of vision, yet they cannot forget the grass roots.
 7. The Constituent Assembly although being shaped by the circumstances of that time but had a futuristic mission and envisaged an institutional structure that was expected to withstand the test of time.
 8. A Constitution at the same time has to be a living thing, living not for one or two generations but for succeeding generations of men and women. It is for that reason the provisions of the Constitution are couched in general terms, for the great generalities the Constitution have a content and significance that vary from age to age and have, at the same time transcendental continuity about them.
 9. A constitution states, or ought to state, not the rules of the passing hour, but the principles for an expanding future

Evolution of the constituent assembly

1. **Mahatma Gandhi** wrote in January 1922 under the caption 'Independence' in his weekly, "**Young India**": that **Swaraj will not be 'the free gift of British'**. Swaraj will be the expression of Indians.
2. For the demand by Indians to formulate their own Constitution, the colonial government appointed the Indian Statutory Commission or the **Simon Commission** on 8 November 1927 to ascertain if India was prepared for further constitutional changes which has been opposed vehemently in India because of no Indian representation.
3. **Motilal Nehru Committee** was constituted by the **All Party Conference in May 1928** to determine the principles of the Constitution of India."
4. The idea of a Constituent Assembly was first mooted by Jawaharlal Nehru in 1933 and after 1943 it became the official stand of the Congress to accept nothing short of a Constituent Assembly to chart out the future of the country.
5. At the Congress sessions of **Wardha (1936)**, **Faizpur (1937)**, **Haripura (1938)** and **Tripuri (1939)** this position was re-asserted
6. However, **in practice Constituent assembly was the 'gift of the British'**. It was based on the **Cabinet Mission plan** approved by the parliament of Britain.
7. **Dr. Rajendra Prasad** was elected the permanent Chairman of the Constituent Assembly. It met on December 9, 1946.
8. **Drafting Committee** was appointed by the Constituent Assembly in accordance with the decisions on the CA on the reports made by the various Committees. **Dr. B.R. Ambedkar** was appointed the chairman of the Drafting Committee.
9. **The draft Constitution was published in January 1948** and the people of India were given 8 months to discuss it and suggest changes.
10. The Constitution of India was **adopted and signed** by the Chairman Dr Rajendra Prasad on **November 26, 1949**.
11. **Glanville Austin** wrote: "With the adoption of the Constitution by the members of the Constituent Assembly on November 26, 1949, India became the **largest democracy in the world**. By this act of strength and will, Assembly members began what was perhaps the greatest political venture since that originated in Philadelphia in 1787.

12. Initially some important Articles came into existence, but the entire **Constitution came into force from January 26, 1950.**

Composition of the constituent assembly

1. Members of the constituent assembly were **not directly elected**; they were indirectly elected by the members of provincial legislative assemblies.
2. The composition was largely determined by the provisions of the **Government of India Act 1935**
 - a. The Act had provisions for the limited franchise based on property, and education etc.
 - b. According to **Austin**, a mere 28 per cent could vote in the provincial assembly elections of early 1946. "Economically and socially depressed portions of the populations were virtually disenfranchised by the terms of the 1935 Act."
3. **The entire assembly was not even indirectly elected.**
 - a. The members from the **princely state** were **nominated**.
 - b. We should not forget that at that time **only five percent of Indians had right to vote**.
 - c. Unlike other countries e.g. France, the constitution of India was **not put to referendum** to know the will of the people.
4. According to **SB chaube** in his book "**The Making and working of Indian constitution**" "The membership of assembly fell into 4 groups
 - a. The representatives of the Congress. –
 - b. A few independent members elected with Congress Tickets
 - c. Independents representing non-Congress provincial legislators.
 - d. The Muslim League who had chosen to stay out
5. The non-Congress opposition (the Akali's and the Muslim League) mainly demanded greater provincial autonomy within the new constitutional structure but it was not conceded. In fact, **S.B Chaube** says that though the opposition was vocal it remained ineffective due to the lack of a common perspective. The **Congress with its overwhelming majority exercised a gargantuan influence over the Constituent Assembly.**
6. In terms of **social representativeness**, 80% of the members were from upper caste, 25% were Brahmins.
7. Because of this It has been argued that Indian constitution is **neither the product of the will of the people, nor it represents the views of all sections of the society.**

Question on representativeness of constituent assembly and whether it represents the will of the people

Argument that Constitution assembly does not represent the will of the people

1. It is said that **Indian constitution is 'Congress Constitution'**.
2. Constituent assembly was a one party assembly and **to quote Churchill 'the assembly of Brahmins'**. Assembly was neither elected by the people, nor people determined its structure and mode of the functioning.
3. It is to be noted that **Dr. Ambedkar**, who was the chairman of the drafting committee himself said that 'if I find the constitution being misused, I shall be the first to burn it.'

4. **Social representation of the constituent assembly is skewed** - In terms of social representativeness, 80% of the members were from upper caste, 25% were Brahmins.

Counter Arguments.

Though above arguments are factually correct, yet these arguments themselves do not establish that Indian constitution does not reflect the will of the people.

We can give following arguments.

1. Elections based on Universal adult Franchise was not held because
 - a. Universal adult franchise would have been the preferred manner in which Assembly members were elected. However, this would **delay setting up the Assembly** - something that the Plan, due to the **complexity and uncertainty** of the **prevailing political situation**, wanted to avoid.
 - b. Thus it was decided that the next best and most **pragmatic solution** would be to take advantage of the recently elected 1946 Provincial Legislative Assemblies. 26 million people voted in these elections on a limited franchise.
2. Supreme Court in **Keshavanand Bharati case** has settled the matter with respect to the will of the people.
 - a. According to the Supreme Court, there is no point examining the factual correctness of the phrase 'we the people'. We have to accept it as correct and accept that members of the constituent assembly were true representative of the people.
3. **Granville Austin - Congress was India and India was Congress**
 - a. Though constituent assembly was dominated by Congress, but as suggested by '**Granville Austin**', **it was one party assembly in one party state which means state was truly represented by the congress**. Other Parties like Hindu Mahasabha or Ambedkar Republican Party of India didn't get even single seat.
 - b. Congress co-opted the members of other parties so that constitution becomes a consensus document.
 - c. Congress was a **rainbow coalition** representing the views of various smaller parties.
4. There used to be **extended debates** on almost all features of the constitution. Unlike the constitution of Nepal, which is a majority constitution, Indian constitution is consensus document.
5. If we look at the results of the first General elections, we can see that the composition of members had not changed. This shows that even when election had taken place, composition would not have been different.
6. **NCRWC** [National Commission for the Review of the Working of Constitution] which was set up by non-congress govt. led by NDA **did not recommend any far reaching changes or the need to call for the new assembly.**

Question mark on the relevance of the ideas of constituent assembly at present

1. **Frequent amendments question the consistent relevance of the constitution of India**
 - There has been a question mark on the legitimacy of the constitution and whether the present constitution is able to meet the aspirations of Indians in the 21st century.
 - In around 70 years of its existence, constitution has been amended for more than 100 times whereas US constitution, which emerged in 18th Century has seen only 27 amendments so far.
 - In case of India, the very first amendment took place in the very first year of the republic.

- **Counter argument** Indian constitution is 'organic document.' It is a mix of rigidity and flexibility. Besides the formal process of amendment, the provisions of constitution have been continuously amended to meet the aspirations of the people in an informal manner by judiciary and adoption of the new conventions.
2. There has been lot of **ambiguity and internal contradictions among the different provisions** of the constitution, resulting into legal battles and political conflicts.
 - There has been a conflict between Right to Equality and Freedom to practice religion in case of uniform civil code.
 - Similarly, the rights of the individual often come in conflict with the rights of the community as seen in Sabarimala case. The constitution is called as Lawyer's paradise.

Question on Constitution being borrowed rather than Indigenous

1. **Indian constitution is criticised of being "the bag of borrowing" for example** It has borrowed features from British (parliamentary form and rule of law) American (Fundamental rights) France (Idea of equality, liberty and fraternity) and there has not been indigenous features so it cannot represent the true will of the people
2. **Dr. Ambedkar** countered this and held that There is nothing to be ashamed of in borrowing. Despite the borrowed features in the Indian Constitution, it is a unique set of laws that explain the structure and working of the Government of India. He held that rightly said that it was created after ransacking the known Constitutions across the world.

Conclusion

1. **Pratap Bhanu Mehta** held that Indian constitution is **consensus Documents, Like Indian culture, it is syncretic and eclectic.**
2. It is also a **cosmopolitan constitution** reflecting the ideals of various constitutional visions. It means our constitution is based on universalist values like Liberty, Equality, Fraternity. It also means that it is drawn from multiple sources. It is situated at major cross currents of the global constitutional law.
3. Successful working of the constitution at the **crossroads of 75 years of Independence** shows the relevance and representatives of the Indian constitution.

Thus we can say that Indian **Constitution was a consensus document** – Majority of the provisions were adopted by consensus rather than by majority.

Legacy of the British rule

The Indian constitution does not reflect a distinctive break from the past but it is an example of the continuity with Change. It is not the product of sudden change but the product of development over time. Development of the Indian constitution happened through a series of many antecedents and historical events which resulted in the development of the Constitution of India, the world's largest written constitution.

According to Bipin Chandra, there is a legacy of British rule because unlike China, India did not start with a clean slate. If China has gone through the communist revolution, what happened in India was 'transfer of power'. Indian elites, educated in the western liberal education system had preference for the liberal, democratic, political order.

To talk from Gramscian perspective, the legacy of the British rule shows the continuing hegemony of the British. If we apply the perspective of **structural Marxist, Hamza Alvi**, the elites in South Asia preferred to continue with '**the overdeveloped state**' as it provides lot of privileges to the ruling class. Hence there are different ways of explaining the continuation of legacy. British legacy is evident in almost all spheres of life. From administration to art and architecture.

Legacy in political system and constitution

The nature of Indian federation, the institution of governor, ordinance making powers, emergency provisions are drawn from colonial constitution which has been framed with the objective to maintain the hold of the raj.

Legacy of British Rules and Acts

- Prior to the constituent assembly that convened in 1948 to draft the Indian constitution the fundamental law of India was mostly embodied in a series of statutes enacted by the British Parliament for example.

A. Government of India act -1935

- i. It is surprising that there have been extreme protests against Simon commission. Govt. of India Act 1935 which became the foundation for India's political system is based on the recommendations of the Simon Commission.

- B. **The Government of India Act, 1919**-The British adopted a bicameral structure with separate central and provincial governments. This was also the first time when people could elect their own representatives through direct elections. The Constitution later adopted this quasi-federal and bicameral structure.

System of government

- a. **India has adopted parliamentary form of government** despite federal constitution. Ideally presidential form of govt. is suitable for federalism. It was the impact of britishers and their institutions that parliamentary form of govt. was preferred over presidential.
- b. **We inherited the Supremacy of lower house over upper house** – This is again deviation of ideal type of federal system in countries where federalism exist we find tradition of strong upper house for example –USA.

Administration

- In field of administration India primarily inherited the colonial systems.
 - a. **Bureaucracy** - Britishers considered the Bureaucracy as the steel frame of British Raj. Even post independent leaders like Patel gave significance to the bureaucracy. Thus Bureaucracy remains a central institution in the Indian context.
 1. Therefore, In India also we can apply mode of **HAMZA ALAWI over developed state**. Where bureaucracy holds a very strong position and he holds its origin to colonial legacy.
 2. **Bureaucracy in India continues to thrive under 'cloak of secrecy'**, giving rise to new despots. Govt. has continued with **Official Secrets Act 1923**, which dilute the transparency and accountability. Only in 21st century govt. could institute 'right to information'. Different part. of govt. specially on civil services highlight that Indian bureaucracy continue to possess colonial mind set. [Alagh Committee].
 - b. **Our criminal justice system has hardly changed over period of time**. We should not forget that Pandit Nehru who was a major civil rights activist, during freedom struggle, promised

that there will be '**no black laws**' in Independent India. But there has been continuation of the **colonial laws** even after independence.

- i. If any change has come, it has come because of civil society working in coordination with judiciary. Many laws based on Victorian norms had been continued.
- ii. The history of **preventive detentions** in India can be traced back to the time of the British Raj. The repressive rule of the British in India used preventive detention laws to overpower the dissenting voices of Indians.
- iii. Other **draconian provisions like 124-A and 153 A** (Sedition charges) can be traced to the Britishers and Misused even now to suppress the voice.
- iv. Only recently SC had decriminalized Homosexuality (Art 377), Adultery 497. Thus brought change in the interpretation of sec 377. Similarly, on adultery Section 497, only recently the approach had been made free from Victorian mentality.

Indian constitution shows the continuity with change Some features of the British Acts which have been adopted are now part of the Basic structure of our constitution like parliamentary form of government, Rule of law, Federation etc. But some unique and noble features have been adopted which were unique to the Independent Indian constitution like Fundamental rights, Directive principles etc.

Legacy in other spheres like social, economic and Administrative

Economic

- Even after independence, Indian economy remained colonial. India continued to be the supplier of raw materials and the market for the goods of the western countries. In international economy, India continues to reflect the nature of colonial economy, categorized as the state in periphery or semi periphery.
- The continuing regional imbalance show that we have not been able to overcome the impact of colonialism. Rural backwardness, rural poverty, lack of public investment in agriculture, failure of land reforms, agricultural crisis shows the continuation of the colonial approach towards the development. Besides agriculture all other sectors of economy with the exception of service sector show that there is no distinct break from colonialism.

Indian society

- The continuing social conflicts, the politics of caste, religion, language can be seen as the legacy of the British Raj. Many contemporary problems have been because of the divide and rule policy of the British. Unfortunately, Indian elites preferred continuity over change.
- Communal identities were emphasized by British to create division in society and suppress feeling of nationalism. In contemporary times, same strategies are applied with purpose of electoral gains. This renders society divided on various lines e.g. Religion, caste, region (language) etc.]

Education system

- British education system aimed at the production of clerks. It emphasized on rote learning, it was actually against developing creative and rational thinking. One of the most unfortunate continuation of the British rule has been the continuation of Macaulay's system of Education.

Foreign policy

- The partition of the subcontinent has been one of the worst legacies of the British rule. Unfortunately, elites on the subcontinent could not overcome the legacy of the partition. South Asia remains the least integrated of all regions, only next to middle east.

- The South Asian elites have brought South Asia on the brink of the nuclear war. They continue to remain plaything in the hands of neo imperialist power.
- **According to C Rajamohan**, Nehru's policy towards neighbours was based on Curzon's policy. Nehru's 'treaty diplomacy' with South Asian neighbours like Nepal, Bhutan is nothing but superficial modification of the treaties entered by British with these Kingdoms. Indian neighbours continue to believe that India has colonial mind set.

CONCLUSION

Thus India reflect more of a continuity and less of change from the Raj. Unfortunately, there are more negative consequences of the legacy. **Rabindranath Tagore** was right when he held that – *'I am sure that British will leave this country one day however I am sure that before leaving, British will leave so much dirt and filth that generations of Indians will not be able to clean it.'*

Different Social and Political Perspectives of the Indian constitution

The constituent assembly was essentially a deliberative platform. People from different social and economic, as well as ideological background were the members of the assembly and participated in it. Hence there were lot of debates in the assembly. One of the reasons for lengthiest constitution is that it accommodates different perspectives.

Granville Austin believe that there was a broad consensus on the goals but there was a widespread opposition on the means There were different schools of thoughts propounding different roots.

Gandhians vision of constitution –

- **Gandhi advocated decentralisation. He wanted village to be the primary unit of social organisations.**
- Gandhi suggest introduction of panchayati raj. His model was propounded by **his follower SN Agrawal**. He advocated for the constitution wherein the primary political unit was to be village Panchayats. The members of panchayats would be elected by the adults of village and will supervise co-operative farming, irrigation Khadi and village Panchayats.
- Gandhian constitution was not supported by the modernized sections of the constituent assembly. Leaders like Nehru and Ambedkar supported adoption of representative form of govt.
- The Ultimate decision showed a **type of compromise or accommodation**. The Gandhian principle of Panchayati raj found place in DPSP.

Debate between the socialist and liberals

- In Indian context **both Liberal and socialist lobby were very strong.**
- According to Austin, there were different branches of socialism in constituent assembly. The model ranged from Marxian to Gandhian model. However, the dominant model was Fabian model.
- India adopted the Nehruvian model. Pt. Nehru was influenced by Fabianism, thus in Indian Context Socialism was to be Gradual and guided by ideals of democratic and economic betterment of the masses. Social goals were to be adopted through the liberal instrumentalities.

Other debates in the constituent assembly

Debate on Nature of the Political System.

- **Modernists like Nehru and Ambedkar preferred parliamentary democracy** whereas Gandhians were demanding Panchayati Raj.
- Nehru preferred Parliamentary system whereas the leaders of Hindu Mahasabha favoured Presidential system.
- **Alladi Krishnaswamy Iyer** favoured a strong President.
- **KM Pannikar. KT Shah** favoured the parliamentary form of govt. where president should be only a constitutional head.
- In Indian context, the situation was different from British. **India has adopted republican form of Govt. rather than monarchy like British.** Hence the position of Indian president and his powers different from British Monarch.

Debates on social Inequality

- a. Being a diverse country with respect ethnicity, language and religion, it was a major concern among the founding fathers to accommodate such a diversity.
- ii. **Religious plurality** - Although the term 'secular was not included anywhere in the constitution originally in 1949, but secularism was treated as a value in the Constituent Assembly, which is explicit through the views expressed by the members of the Constituent Assembly.
 1. **H.V. Kamath** said: 'When I say that a state should not identify itself with any particular religion, I do not mean to say that state should be anti-religious or irreligious. We have certainly declared India to be a secular state. But to my mind, a secular state is neither a God-less state nor an irreligious nor an anti-religious state.
- iii. **Language** - Despite the difficulties on account of the multiplicity of languages prevalent in the country, members of the Constituent Assembly had decided to adopt Hindi, which was the language that was understood by the largest number of people in the country, as our official language.

Constitutional Amendments: Rigidity Vs Flexibility

In the Constituent Assembly there was a lively debate regarding the constitutional Amendments

- **PS. Deshmukh suggested flexible amendment.** He said that 'we are conscious that there are many provisions which are likely to create difficulties when the constitution actually starts functioning. This constitution is bound to be and will prove to be defective in many respects. It would be better to change the constitution, than to risk the whole constitution being rejected.
- On the Other hand, scholars like **H.V. Kamath**, was of the opinion that 'amendments is not to be taken lightly because the Constituent Assembly of any country is superior in constitutional status to any future Parliament of that country.
- **Dr Ambedkar** held that The constitution is a fundamental document and utter chaos would result if it could be amended by a simple Parliamentary majority
- Commenting on the flexibility of the constitution **Nehru** pointed out in the Constituent Assembly.
- While we want this constitution to be as solid and permanent as we can make it, there is no permanence in constitutions. There should be a certain flexibility. If you make anything rigid and permanent, you stop the nation's growth of living, vital, organic interest and aspirations of people.
- Thus with Adequate Debate and discussions, **A blend of flexibility and rigidity** was adopted.

Parliamentary supremacy Vs. Judicial supremacy.

- **In the federal form of govt. constitution is treated as supreme.** The supremacy of constitution results into the supremacy of judiciary because Judiciary is the final interpreter of the constitution.
- India has also adopted **parliamentary form of govt.** it works on the concept of parliamentary supremacy.
- The 2 principles came into conflict ultimately compromise emerged in Indian context and concept of Independent judiciary came into existence with parliament having the significant power to amend the constitution.

System of Elections-Separate Electorate Vs. Reservation

- **Ambedkar** favoured separate electorates for the Dalits. Members of the minority like **Pocker Sahib** demanded separate electorate
- Nehru and Patel were against granting the separate electorate.
 - i. **Sardar Patel** held that separate electorate will be suicidal for the minorities. It will always prevent them from becoming the integral part of the nation.
- At the same time Other members of minority like **Begam Aizaas Rasul** also opposed separate electorate.
- Ultimately compromise emerged and system of reservation of seats was adopted.
 - i. **Article 334** provides the reservation of seats for the Scheduled Castes and the Scheduled Tribes in the House of the People and the Legislative Assemblies of the States.

Nature of Federation.

- The members of the parties like Hindu Mahasabha and other groups preferred loose federation.
- On the other hand, **Nehru and Sardar Patel**, won over those who preferred stronger states. This has resulted into a highly centralized federation often termed as quasi-federal.

Uniform Civil Code (UCC)

- One of the most debatable issue was uniform civil code.
- Members of minority like **Pocker Sahib, Ismail Sahib** were against UCC whereas women members like Hansa Mehta, **Rajkumari Amrit Kaur** and leaders like **K.M. Munshi** strongly favoured UCC.

Fundamental Rights Vs DPSP

- There have been elaborate debates on fundamental rights.
- Longest debate had been on right to property.
- There has been dissatisfaction over the status of DPSP.
- Leaders like **NG Ranga, Jaipal Singh, Ambedkar** wanted guaranteed rights found in part 4 of the constitution.
- Large number of leaders also favoured that DPSP should be justiciable. If not made they would be nothing more than pious declarations.
- Kazi Karimuddin, HN Kunzru , H.D. kamat Somnath Lahiri favoured DPSP to be made justiciable.

Nature of Judiciary

- The nature of judiciary was another debated issue. Constituent assembly did consider the system of appointment of judges by judges for the sake of independence. However, it was opposed by **Ambedkar** on the ground that there can be no '**Imperium in imperio**' i.e. No state within the state.

Institution of Governor

- There was huge concern with the nature of the institution of the governor. **Pandit Thakurdas Bhargava** recommended Pandit Nehru to make elaborate provisions on the qualifications of the governor rather than leaving it on conventions.
- **Thus constituent assembly had adopted different provisions after elaborate debates** and with consensus. We should appreciate the wisdom of the members of the constituent assembly. Constitution making is 'work in progress' and as mentioned by Supreme Court.

Suggestion of scholar's and founding fathers on future working of constitution

1. In the last debate of constituent assembly **Dr Ambedkar** held that The working of a Constitution does not depend wholly upon the nature of the Constitution.
 - The Constitution can provide only the organs of State such as the Legislature, the Executive and the Judiciary. The factors on which the working of those organs of the State depend are the people and the political parties they will set up as their instruments to carry out their wishes and their politics
2. **Andre Beteille**- A constitution may indicate the direction in which we have to move, but social structure will decide how far we are able to move and at what pace.
3. **Rajendra Prasad**: Successful working of constitution requires those who have to work them to respect view point of others.

Conclusion

According to **Pratap Bhanu Mehta**, Indian constitution is a unique experiment in the field of constitutionalism. Indian constitution is not an ordinary document unlike other constitutions. It is sacrosanct. Unlike other countries, where revolutions led to the formation of the constitution, Indian constitution is itself revolutionary. In India revolution started after independence. India is an example of social revolution through the constitution. We have put the entire faith on the constitution to transform a highly traditional society into a modern society.

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Salient Features of the Indian Constitution

Syllabus: Salient Features of the Indian Constitution: The Preamble, Fundamental Rights and Duties, Directive Principles; Parliamentary System and Amendment Procedures; Judicial Review and Basic Structure doctrine.

Previous Year Questions

2021	Constitutionally reconciling the fundamental rights with the directive principles of state policy has led to frequent amendments of the constitution and judicial intervention "Comment.
2020	Ambedkar idea of constitutionalism.
2019	"The basic structure doctrine is implicit in the Indian Constitution; the Supreme Court has only given it an explicit form. Comment.
2019	Comment on the relevance of the Directive Principles of State Policy in an era of liberalization and globalization.
2017	Comment on: Right to privacy is an intrinsic part of the right to life.
2016	The purpose 42nd Constitutional Amendment was to make the economic and social democracy explicitly visible.
2016	Discuss the Right to Information and underline challenges being posed before it.
2015	Comment on: Secularism in the Indian Constitution.
2015	Discuss the 'Right to Education' and the concerns raised by it.
2014	Comment on: Increasingly higher focus on Directive Principles of State Policy
2013	Comment on: Significance of the Preamble.
2013	Analyse the significance of Article 32 of the Indian Constitution.
2013	Examine the significance of the verdicts of the Supreme Court in the Golaknath and Keshavanand Bharati cases for an understanding of the scope of Article 368 in regard to Fundamental Rights.
2012	Comment on: Doctrine of Basic Structure of the Indian Constitution.
2012	Examine the relevance of Directive Principles in the era of liberalisation and globalization.
2011	Examine the significance of the Directive Principles of State Policy in achieving the goal of socio-economic justice.
2008	Comment on: The type of Government enshrined in 'the Preamble of the Indian Constitution.
2007	Comment on: The Directive principle of state policy are not mere pious declaration but clear direction for the guideline of state policy.

Salient Features of the Indian Constitution

The Preamble

Preamble is attached to the laws to make sense of the provisions because laws are drafted in a technical format. It's like an introduction for the reader to understand the objectives. The custom to attach preambles with the constitution started with the US constitution. The first written constitution in the world.

In this Regard **K.M. Munshi** called Preamble as horoscope of the constitution-

- Horoscope tells the date and place of birth. Preamble also tells the date of adoption by the constituent assembly.
- Horoscope tells the traits of the personality of a person and the preamble of the Indian constitution also describes the nature of the Indian state.
- Horoscopes also predict the future course similarly in case India preamble tells the ideas to be achieved by the political system. The ultimate ideals are to ensure national integrity and human dignity.

Pandit Thakur Das Bhargava, another member of the Constituent Assembly, summed up the importance of the Preamble in the following words: 'The Preamble is the most precious part of the Constitution. It is the soul of the Constitution. It is a key to the Constitution. It is a jewel set in the Constitution. It is a proper yardstick with which one can measure the worth of the Constitution'.

M Hidayatullah, a former Chief Justice of India, observed, 'Preamble resembles the Declaration of Independence of the United States of America, but is more than a declaration. It is the soul of our Constitution, which lays down the pattern of our political society. It contains a solemn resolve, which nothing but a revolution can alter.'

Preamble of the Indian Constitution serves following purposes:

1. It contains certain facts related to the constitution. For example - day and place of enactment and adoption
2. It tells about the grand and noble vision guiding the framers of our constitution.
3. In Keshavanand Bharati Case 1973, Supreme Court held that Preamble contains the basic structure of the constitution.
4. It explains in unambiguous terms that the constitution is enacted and given to them by the people of India assembled in the sovereign constituent assembly.

Evolving opinion of the SC w.r.t preamble

The judgements of the SC deals with the 3 major dimensions of the preamble

1. Whether Preamble is a part of the constitution or not?
2. Should the constitution be interpreted in the light of preamble?
3. Whether preamble can be amended or not?

Whether the preamble is a part of the constitution or not?

1. **Berubari case (1960)** : SC held that Preamble shows "general purposes" for which constitution makers have made several provisions in the constitution. However, SC held that **Preamble is not part of the constitution**. SC took the precedent of the USA. According to US SC, preamble is not the part of the constitution.
2. **Keshavanand Bharati case (1973)** : SC admitted the mistake that it has overlooked the specific historical facts w.r.t the preamble. Fact : that preamble was passed in the constituent assembly by the motion which mentioned that preamble is being adopted as the part of the constitution.
3. **S.R. Bommai case 1994** - The Supreme Court held that Preamble is an integral part of the constitution.

Should the constitution be interpreted in the light of preamble?

1. A.K. Gopalan Vs State of Madras (1950)

1. A.K. Gopalan case was about preventative detention etc. which was re-heard in the Maneka Gandhi case and was related with the Article 21.

2. SC held that **Preamble is not essential for the interpretation of the constitution. Preamble** is not the source of power.
 3. Preamble is also not the source for depriving power which is explicitly given in the constitution.
 4. Preamble to be used as an interpretation only when there is ambiguity in the provisions of the constitution.
2. **Berubari union Case 1960 -**
1. Preamble is neither the source of any substantive power conferred on government, nor a source of prohibition.
 2. Preamble, not to be resorted to if the language of enactment contained in the constitution is clear. If terms are ambiguous and capable of two meanings, then assistance may be sought.
3. **In the Keshavananda Bharati case**
1. SC overruled its earlier judgement and held that the constitution should be interpreted in the light of the ideals given in the Preamble.
 2. The Supreme Court found that Preamble furnishes valuable guidance in the matter of interpretation of the constitution and it should be read and interpreted in the light of Preamble.

Whether Preamble can be amended?

SC has gone for creative interpretation of article 368 and held that even though preamble is not the provision of the constitution but still it can be amended

- **Why** - in the case of the USA, Preamble walks before the constitution whereas in India it walks with the constitution i.e., Preamble was adopted in the last.
- **Why was the preamble adopted at the last?** because there should be no inconsistency b/w the ideals given in the preamble and rest of the constitution.
- **Why did it become necessary to allow the amendment of the constitution?**
 - It may happen that inconsistency comes up because of amendment in the provision of the constitution **hence to ensure the harmony** it may become essential to amend the preamble.

Ideals of the Preamble

Idea of India

The term "Idea of India" was first given by Rabindra Nath Tagore.

- It's a future vision of India.
- It came in response to the ideal of Pakistan which is contrary to the Idea of India.
 - The basis of creation of Pakistan was religion as a separate homelands for the minorities whereas the idea of India emerged as a secular country where minorities need not fear about the loss of their identity in the name of majoritarianism.
- Beside secularism, the Idea of India also includes sovereign, socialist, secular, democratic and republic.
- **Sunil Khilanani in his book "The idea of India "** warns against the tendencies to destroy the secular fabric of the country and to make India a Hindu-Pakistan.

Ideals of socialism in the preamble

- The term "Socialist" was added by the 42nd amendment act.

- In D.S. Nakra vs Union of India, 1983, the Supreme Court held that socialism in India denotes the commitment to reduce inequality of income and status.
- In **Samatha Vs State of Andhra Pradesh**, the Supreme Court reiterated the meaning of Indian socialism based on Article 14, 15, 16, 17, 21, 23, 38, 39 and 46.
- Indian socialism is influenced by **western as well as indigenous ideas**. The state led socialism with the objective to reduce inequalities of income and wealth is influenced by **Fabian socialism**. **However, the ultimate objective is to the dignity of life for all the people living in India. Constitution takes equality in the widest sense i.e., social, economic and political.**

New economic policy and socialism

Though India has changed its economic policies in the 1990s. However, we have not lost the commitment towards socialism.

- With the introduction of new economic policies which have generated wealth and led to the economic development of the nation Today we are in a better position to address the goal of socialistic issues like poverty alleviation and investment in social infrastructure.
- The political reform and economic reforms are going side by side. Though political reforms were comparatively slow when India adopted a new economic policy, at the same time we've introduced Panchayati Raj with the main objective of achieving rural development.
- Today we've been able to introduce the **right to education -2009** as a fundamental right, right to food and employment as legal rights.
- Along with liberalisation and privatisation we've also introduced entitlement based approaches.

Popular Sovereignty

- It declares that the ultimate sovereignty in India lies with the people. People have enacted, adopted and given the constitution to them. According to Pt Nehru, "we the people ", represented the people of India in aggregate capacity and not by states or people of states. Hence, neither for any state or people of any state, it is possible to put the constitution to an end and secede.
- "We the people" is borrowed from the USA and shows that the constitution derives its power from the people of India.

Philosophy/Purpose/Rationale behind existence of Indian state

To secure to all its citizens:

1. **Justice** - Justice is described as attainment of common good to attain peace and harmony in the society
 - a. **Social Justice** - It denotes the abolition of caste, class and gender based inequalities and to give life of dignity to all.
 - b. **Economic Justice** - It points towards equitable distribution of wealth.
 - c. **Political Justice** - It represents the absence of arbitrary discrimination among people in political sphere. Universal adult franchise is an example of political justice.
2. **Liberty** - The constitution aims to secure the liberty of thought, expression, belief, faith and worship considered essential for the well-being of the people.
3. **Equality** - The constitution aims to secure equality of status and opportunity. Thus abolishing discrimination based on caste, gender, religion, race etc.
4. **Fraternity** - It represents the spirit of brotherhood, the necessary condition for national integration.
5. **Dignity** - The constitution aims to give the life of dignity to all. It denotes the right to adequate means of livelihood, humane conditions of work and a decent standard of living.

6. **Unity and Integrity of the Nation** - It sounds the concern of the founding fathers, while securing the rights and liberties of the citizens.

To conclude, we can say that the spirit and ideology behind the constitution is sufficiently crystallised in the Preamble.

Secularism in India or India as a secular state

India is a secular state and as per SR Bommai case, secularism is the basic structure of the constitution.

Nature of Indian secularism

- Instead of strict separation, the constitution provides for: Equal treatment to all religions for ex; Article 27-freedom as to the payment of taxes for promotion of any particular religion.
- It provides for religious freedom. Under religious freedom, freedom of conscience, freedom to practice, propagate and profess religion.

Supreme court on Indian secularism

- **The Supreme Court in St Xavier's Vs State of Gujarat** explained the meaning of Indian secularism as - "State is neither anti God or pro-God. It treats the devout, agnostics and atheists alike. It eliminates God from the matters of state and ensures that no one shall be discriminated against on the basis of religion. Every person is free to mould or regulate its relation with God."
- **In Ismail Faruqui Vs Union of India**, the supreme court held that "secularism is a facet to right to equality woven as a central thread in fabric depicting the scheme of our constitution "
- **In SR Bommai case 1994**, the Supreme Court held that secularism is the basic structure of the constitution.
- **In I.R. Coelho Vs State of Tamil Nadu** - Part III of the constitution established India as a secular state.

Debate and Scholar's view on Indian secularism

Rajiv Bhargava - Rajiv Bhargava has called Indian model as

1. Principled distance model of secularism
2. Politically negotiated model

Principled distance model of secularism

- In India, secularism means equal treatment of all religions. Religion in India continues to assert its political authority in matters of personal law. The western model of secularism is criticised in India for being an outdated concept as Rajeev argued that since Western model was developed when society was more homogeneous but since in the era of globalisation, society is becoming more heterogeneous.
- This model of secularism differs from the mainstream enlightenment model. No religion is to be given special favours or any religion is disfavoured. No special public significance of religion but not, no significance at all. It means the state is institutionally separated from the religion but engages with religion as a matter of law and social policy.

Politically negotiated model

He calls the Indian model as the Politically negotiated model because it was shaped by the various political and social circumstances prevailing at the time of independence.

1. The special rights for the minorities has been provided for countering the demand for the Pakistan by the minority groups.
2. Another reason is the state interventionist approach in the Hindu religious act in the form of making the legal provisions like Hindu code bill.

7 feature of Indian secularism given by Rajiv Bhargava

1. **No Strict separation**- State is not identified with the particular religion but state is not entirely averting to religion. There are strict boundaries rather porous boundaries.
2. **No Active hostility towards religion as happens in the communist state**- In Aruna Roy case SC accepted the concept of positive secularism.
3. **No Passive indifferences as in European states like France**- Substantive model based on the values of liberty fraternity and dignity.
4. **Principled Distance model**-
5. **Context specific** rather than being based on overarching idea
6. **Politically Negotiated Model**-
7. **Engagement and disengagement**- Religion is present even in the foundation of the state. It means state are not free from religion.

Pratap Bhanu Mehta "calls Principle distance model AS Asymmetrical model"

- He is critical of Congress Secularism and views of Rajiv Bhargava
- He held that Principled distance is a misleading metaphor which provides ideological legitimation to congress appeasement policies.
- He criticise this model of Flirting with all religions and it makes all communities insecure.
- Indian model itself give rise to communalism because of its **plausible nature**.
- Indian secularism is a balancing act. It is legitimising vote bank politics with a distinctive name.



Neera Chandoke - She suggests that secularism cannot be subtracted from the wider conceptual context of which it forms one part. It can only be understood as an intrinsic concept of the historical, constitutional, and political practices of democracy, freedom, equality, justice and rights.

Arun Shorie -challenged Indian model of secular state on two grounds

1. In a secular state, it is individual rather than community which is the basis of rights.
2. He says India remain **PSEUDO SECULAR** because it gives the special power and empowering provision for the minorities and political parties go for the appeasement of minorities.
3. Secular state does not discriminate what can't be given to all should not be given to anyone.

Romila Thapar

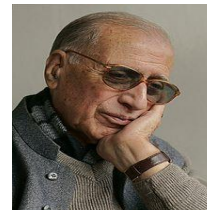
- "Indian secularism should be brought out of the pale shadow of Sarva Dharma Sambhava and should be getting some more bold form of secularism.



Sudha Pai suggests that There needs to be a **rational debate** on Secularism in India

TN Madan

- He is a Neo-Gandhian who believes in the Religious Toleration and Dialogue
- He believes that vagueness of Indian secularism was once its strength but now it's becoming its problem.
- According to him, **secularism without secularisation is not possible. Secularisation means reducing the role of religion in the lives of man.**
- It does not imply people becoming irreligious but only implies that religion is no more than an overarching guide.



Ashis Nandy (Neo Gandhian)–in his book “Non-secularist manifesto”

1. He has suggested that there is no utility of adopting western model of separation rather we should be promoting greater dialogue b/w religion.
2. Secularism is Western concept not suitable for India
3. Suggested step needs to taken
 - Education institution should promote religious education
 - To promote active dialogue between religions.



Akheel Bilgrami, Achin Banaik & Parth Chatterjee are **critical** to the views of Nandy and Madan.

1. Achin Vanaik

- a. Marxist scholars are apprehensive of bringing religion into the public sphere
- b. the root cause of communalism is religion and what is needed is secularization of society.

2. Parth Chatterjee,

- a. Existing model of secularism is proving too weak to check the rising tide of communalism in the country.

3. Akheel Bilgrami,

- Nandy's view is nostalgic.

Conclusion

Rajiv bhargava believes that Indian secularism continues to be misunderstood. Its complexities, distinctiveness remains **painfully illusion** .

Communalism in India

It is an ideology according to which society is divided into different religious communities having different secular interests. Society is divided in to different religious groups whose views differ and even collide and that creates Intolerance of Ideas and Ultimately conflicts.

Causes for communalism in India

1. **Essentialists:** - **Louis Dumont** (French sociologist).
 - a. According to him, Hindus and Muslims are the two antagonistic communities, co- existence is not possible. The theory supports arguments like two nations.
2. **Instrumentalists:** **Bipin Chandra**
 - a. People are not communal but the political leaders prefer mobilisation on the lines of religion which leads to communalisation.
3. **Institutionalist:** **Ashgar Ali Engineer**
 - a. It's the result of the state policies when community rather than individual is chosen as the basis of political patronage.
4. **Social constructivists:** **Mahmood Mamdani**
 - a. Communities nurture certain assumptions about each other. They develop certain perceptions, mental maps and continue to live with them without verifying them.

Analysis of communal riots in India

Paul Wilkins and later Paul Brass

- They have analysed the communal riots in India and held that these riots are “**Staged drama**”. Complete machinery of riots exists.
- Riots are conducted with complete professionalism.
- Country is never free from communal violence, there are only active and passive phases. They gave 3 stages on the life of communal riots:
 1. **Preliminary stage or rehearsals:** There is a role of "fire tenders".
 2. **Precipitation stage:** When violence actually erupts. It is normally near election time. There is a role of Conversion specialists.
 3. **Explanatory stage:** When "Blame game" starts. All political parties are benefitted by the riots. Those who play active roles are also rewarded in public functions.

C.P Bhambri

- The politics of religion and politics of caste are the two sides of the same coin. politics of caste automatically leads to communalism holds congress responsible because congress played "Caste Creed". When one party play "Caste card" other party has to play the "Religious card".

Fundamental Rights

Origin of the fundamental rights

- Concept of rights of man is a product of modern age. Enlightenment movement established that man is rationale, hence has ability to govern himself. Thus, rational man should possess rights.
- Political philosophies like liberalism emphasizing on autonomy of individuals has strengthened the concept of rights.
- There are different theories of rights. The strongest theory of rights is "Theory of natural rights" By **John Locke** suggesting that rights are given to man by nature. They are not dependent on state. State is not the source of rights. The role of state is to establish law and order so that man can enjoy rights.
- The theory of rights is linked to concept of natural governance and rule of law. It gives protection to individuals against arbitrary actions of the state and undue interference of society. Theory of natural rights is also linked to ideals of **Immanuel Kant** who gave concept of human dignity.

Fundamental rights in India

Indian scheme is **influenced by Universal declaration of Human Rights (UDHR)** i.e., why rights are also given to non-citizens. It is influenced by ideology like classical liberalism, welfare state, multi-culturalism and democratic socialism.

Significance of Fundamental rights

Fundamental Rights are significant in the following respects:

1. They constitute the bedrock of democratic system in the country.
2. They provide necessary conditions for the material and moral protection of man.
3. They serve as a formidable bulwark of individual liberty.
4. They facilitate the establishment of rule of law in the country.

5. They protect the interests of minorities and weaker sections of society.
6. They strengthen the secular fabric of the Indian State.
7. They check the absoluteness of the authority of the government.
8. They lay down the foundation stone of social equality and social justice.
9. They ensure the dignity and respect of individuals.
10. They facilitate the participation of people in the political and administrative process.

Feature of fundamental rights

The Fundamental Rights guaranteed by the Constitution are characterised by the following:

1. **Some of them are available only to the citizens while others are available to all** persons whether citizens, foreigners or legal persons like corporations or companies.
2. **They are not absolute but qualified.** The state can impose reasonable restrictions on them. However, whether such restrictions are reasonable or not is to be decided by the courts. Thus, they strike a balance between the rights of the individual and those of the society as a whole, between individual liberty and social control.
3. **Most of them are available against the arbitrary action of the State**, with few exceptions like those against the State's action and against the action of private individuals. When the rights that are available against the State's action only are violated by the private individuals, there are no constitutional remedies but only ordinary legal remedies.
4. **Some of them are negative in character**, that is, place limitations on the authority of the State, while others are positive in nature, conferring certain privileges on the persons.
5. **They are justiciable**, allowing persons to move the courts for their enforcement, if and when they are violated.
6. **They are defended and guaranteed by the Supreme Court.** Hence, the aggrieved person can directly go to the Supreme Court, not necessarily by way of appeal against the judgement of the high courts.
7. **They are not sacrosanct or permanent.** The Parliament can curtail or repeal them but only by a constitutional amendment act and not by an ordinary act. Moreover, this can be done without affecting the 'basic structure' of the Constitution.
8. **They can be suspended during the operation of a National Emergency** except the rights guaranteed by Articles 20 and 21. Further, the six rights guaranteed by Article 19 can be suspended only when emergency is declared on the grounds of war or external aggression (i.e., external emergency) and not on the ground of armed rebellion (i.e., internal emergency).
9. **Most of them are directly enforceable (self-executory)** while a few of them can be enforced on the basis of a law made for giving effect to them. Such a law can be made only by the Parliament and not by state legislatures so that uniformity throughout the country is maintained (Article 35)

Constitutional provisions

1. Article 12 = Definition of state
Article 13 = Process of Judicial Review (Judiciary as a guardian of FRs)
2. Article 14 to 18 = Right to equality
3. Article 19 to 22 = Right to freedom
4. Article 23 to 24 = Right against exploitation
5. Article 25 to 28 = Freedom of religion
6. Article 29 to 30 = Cultural and educational rights of minorities
7. Article 31 A = Laws/nationalisation
8. Article 31 B = 9th schedule (Black hole of the constitution)

9. Article 31 C = Deals with implementation of DPSP (B & C)
10. Article 32 = Right to constitutional remedies
11. Article 33 = Modification w.r.t armed forces
12. Article 34 = Modification of rights when Martial law is in force
13. Article 35 = Power to Parliament to prescribe punishment for the acts considered as offences. For ex; w.r.t practice of untouchability.

ARTICLE 12

- In this Part, unless the context otherwise requires, "the State" includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.

ARTICLE 13

1. **13(1)** All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void.
2. **13(2)** The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void.
3. **13(3)** In this article, unless the context otherwise requires, - (a) "law" includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law.

ARTICLE 14 TO 18: RIGHT TO EQUALITY

The concerns for equality and inequality has been dealt by many political philosophers of all age. **According to Aristotle** inequality in the society is the main cause of revolution in any kind of political system or society.

According to **Alexis de Tocqueville** - Evolution of human society is clear understanding of the idea of equality. The ideal of equality is linked with human dignity.

According to **Dworkin**- Right to equality is the first fundamental right.

Article 14 suggests that state shall not deny to any person equality before law on equal protection of laws within the territory of India. It ensures:

1. **Equality before law:** It means absence of privileges for any persons. Everyone to be tried under the ordinary law and in ordinary courts. It is also fundamental principle of republicanism. It is also known as the Dicey's concept of law.
2. **Equal protection of law-** Within the territory of India. It is positive in nature; it gives duty to the state to ensure that everyone has equal protection of law. No one should be deprived from the excess of law because of the circumstances.

Constitution provides scope for reasonable classification among persons on the ground of difference in circumstances. The test of reasonable classification is based on the principles of natural justices i.e., fair, reasonable and just. Exceptions are granted to presidents and governor as per article 361, UN personnel, foreign diplomats etc. on the basis of international laws and conventions.

ARTICLE 15

Article -15 - Article 15 states the prohibitions of discriminations against citizens.

1. **Article 15(1)** states that state shall not discriminate against any citizens on the grounds only of religion, race, caste, sex and place of birth or any of them. It talks about the prohibition, discrimination against but permits positive discrimination i.e., discrimination in the favour of weaker section.
2. **Article 15(2)** is the prohibition can halt state as well as private persons. It is India's specific. It is linked to the disability attached to the certain persons w.r.t the areas. For ex; Shops, restaurants, hotels, places of public entertainments, w.r.t the wells, tanks, etc. maintained only on partially out of state fund or dedicated to the use of public.
3. **Article 15(3)** states that state can make special provisions for women and children. It is an exception to the Article 15(1) which prohibits discrimination on the ground of sex. Article 15(3) enables state to make special provisions for women and children. It is often seen together with Article 15(2), it gives special duties on the state to secure just and human conditions of weak and for maternity itself reflected in clause (1) of Article (30).
4. **Article 15(4)** was added by the first amendment act. It enables state to make any special provision for advancement of any socially and backward classes of citizens or for SC/ST.

93rd constitutional amendment act 2005 introduced clause (5) in Article 15

- Providing reservation for socially and educationally backwards classes (SEBCs) in state/state aided educational institutions subject to the exclusion of the "Creamy layer" from OBCs. Exclusion of minority educational institutions from the purview of **Article 15(5)** held to be valid. However, there is a difference of opinion with regard to question of validity of inclusion of private unaided institutions within purview of Article 15(5).

103rd Constitutional Amendment of 2019

- The 10% EWS quota was introduced under the 103rd Constitution (Amendment) Act, 2019 by amending Articles 15 and 16.
- It inserted Article 15 (6) and Article 16 (6)
- **Article 15(6)**: Nothing in this article shall prevent State from making: any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5).

ARTICLE 16

- **Article 16(1)** is specific to equality of opportunity in matter of public employment.
- **Article 16(2)** - Prohibition on discrimination by state in matter of public employment on seven grounds. There are 2 additional ground i.e., dissent and residence
- **Article 16(3)** - Permits state to make law providing for the requirement of residence with state or tertiary w.r.t a particular class of employment. Only parliament can make such laws.
- **Article 16(4)** -State can make any provisions for reservations in appointing promotions with consequential seniority in favour of any Backward sections of society.

103rd Constitutional Amendment of 2019 included Article 16(6)

- **Article 16(6)**: Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any economically weaker sections of citizens

other than the classes mentioned in clause (4), in addition to the existing reservation and subject to a maximum of ten per cent of the posts in each category.

Analysis of reservation policy

Reservation policy is affirmative actions. Affirmative actions are the one intervening by the state for the upliftment of a particular sections of society.

Why affirmative actions

- In every society, there can be certain sections who have been historically disadvantaged for ex; Blacks in USA, Dalits in India. The rationale behind the reservation policy is that these groups will not be able to come at par with other sections of the society on their own.
- We can't leave the significant sections of the society in the state of backwardness because it is against the principles of human dignity but it is also the wastage of human resources. Such sections may be vulnerable to anti-national forces because of their feeling of alienation.

History of reservation in India

Reservations or quota in jobs and educational institutions is one of the strongest type of affirmative actions. In India both, British state and provinces and some friendly state had reservations as a policy. Reservations in the educational and public employment has always been a matter of debate. However, reservation is continued in the following way:

1. **Article 330** - Reservations in legislatures both union parliament and state legislature assembly. In proportion of population for members of SC/ST, reservation of women is also proposed.
2. **Through the 73rd amendment act -1993**- Reservation in PRIs of women, SC/ST and optional provisions for OBCs.
3. **Article 15 (4)**- Reservation in public employment for SC/ST/OBC.
4. **Article 15(5)** Reservation in educational institutions for SC/ST/OBC.
5. **Article 15 (6) and 16 (6)**- Reservation for the Economically weaker sections.

The above type of discussed reservations is called as **vertical reservations**.

Horizontal reservations are also provided. For ex; to disabled persons, women, freedom fighters, army etc.

Scholar's view on reservation

Yogendra Yadav and Satish Deshpande has produced a paper where they have advocated to introduce disadvantage points. According to them, reservation policy should fulfil 4 parameters:

1. Intellectually sound
2. Administratively and financially viable
3. Politically defensible
4. Morally justified

Prof. Satish Deshpande Held that it has been Wrongly considered as a poverty alleviation program or employment guarantee program.



RC Guha in his article "Sociology of reservation"

- He suggests that reservation is a highly politicized issue with no scope for rational discourse. Opponents are called as elitist and supporters as populists. Debates on reservation in India generate "More heat than light".
- He also considers that reservation for SC, ST may be acceptable but for OBCs is counter-productive. The logic of reservation is now written in the very structure of Indian politics and democracy. Bold, honest, logical debate is impossible.

**Pratap Bhanu Mehta**

- He calls OBC reservation as political hypocrisy. Caste is the reality of Indian politics but quota will make caste the only reality. Because of quota we are unable to discuss more policies which can have better consequences.
- Rather than finding imaginative solutions govt. policies ensure that we remain entrapped in case. Such policies are nothing but stratagem to assert the power of identity politics.

**Rudolph Heredia** in his book "Taking sides reservation quotes and minorities in India"

has said Justice not only to be done but seem to be done and not just to be debated. Even after 6 decades of such policies we are ambiguous about their outcome. Many inclusions and exclusions are arbitrary.

So not only just procedures are needed but also just outcomes are needed. The way reservation has been used have enhanced competitive politics.

Caste, religion and patriarchy remains the 3 most important obstacles in realizing Nehru's dream of just society by just means.

Marc Gallenter has also been critical of reservation policy. Govt. not only protects discrimination rather consolidate separate identity. These are exceptional and temporary measures which are designed to disappear but because of politics they will never disappear.

Yogendra Yadav in his article "Rethinking social justice" has said that policy and politics of social justice have reached the dead end. However, journey was not entirely justice and wasted. Reservations in India have been largest, strongest and comparatively successful programmes.



However, we need a new debate. It is illogical to think that there is one golden method or master key to redress all grievances.

Suhas palshikar's essay 'the new reservation

1. The contemporary logic of reservation policy precludes judicial intervention. The kind of boundary setting court did in Mandal case would be probably seen as unwanted interference.
2. Judiciary is seen as an external and non –legitimate player as issue is no more originating in the constitution.
3. Now it is not just about competitive claims over public resources like education, state employment, it is more about a new emerging power sharing where proportionality governs.
4. Claims of OBC reservation has come to stand on the logic of economic backwardness than social injustice.

Prof Andre Beteille

- Reservation was Introduced first by Britishers certainly with no good intentions
- Reservation produced unexpected outcome
- Present political elites are continuing with British policies
- He calls govt. policy of introducing reservation in educational institutions and plans to introduce it in private sectors as illogical policy of extracting pound of flesh rather than genuine social policy
- Reservation for SC and ST can be considered as desirable because of historical injustice but reservations for OBCs cannot be justified on the ground of social justice. He calls it **characteristically Indian**



Supreme court's view on the reservation

Regarding reservation there are some ambiguous provisions in the constitution, hence SC has been approached from time to time to through light on constitutional mandate.

Original constitution provided reservations in public employment for any backward class of citizens. However, constitution has not defined the criteria for backwardness. Govt. extended reservations to SC and ST and had constituted "**Kakashab Kalelkar commission (1950s)**" and later "**Mandal commission (1978)**" to determine the criteria of backwardness. They were also to determine the communities to be included in Backward commissions. Both commissions emphasised on the social, economic, educational and political backwardness.

1. Balaji Case 1962

- a. SC was to determine the criteria and to what extent caste only can be the criteria. SC held that neither caste to be the main criteria nor caste to be the sole criteria. Economic backwardness and other factors should be taken into consideration.

2. The Mandal commission case/ Indira Sawhney case (1992)

- a. It has been the Most exhaustive judgement so far on the issue of reservation. It was given by 9 judges bench and includes the following:
- b. Reservation can also be provided by executive order and it is not necessary to make laws.
- c. Reservations not to be treated as an exception to right to equality rather reasonable classification permitted under the constitution. State can make any special provision does not necessarily mean only reservation or quota. It can also be concessions and exemptions.
- d. The vague term 'class' is used in the constitution is not antithetical to concept of caste. For determination of backwardness, caste to be the main criteria and can be the sole criteria.
- e. Govt. to constitute a commission for identification of backward caste.
- f. Backwardness cannot be determined exclusively with economic criteria Social backwardness in Article 16(4) is not limited to social and educational backwardness in article 15(4)
- g. Backward commission to be further classified into more backward and backwardness. Creamy layer criteria so that deserving get the benefit. Reservation can't be more than 50%. However, exceptions to the rule can be given only on valid grounds.
- h. Reserved conditions getting selected based on merit should not be counted against quota reserved for them.
- i. Article 16(4) talks about adequate representation rather than proportional representation. 50% rule to take year as a unit however carry forward rule is not unconstitutional per se.
- j. Reservation confined to initial level and not in promotions Not in services where merit alone is the criteria Reserved category candidates selected on merit basis can migrate to reserved category at the time of allocation of preferential services

k. Permanent body to examine the complains of inclusions and exclusions.

3. Ajit Singh Case -1999

- a. 77th amendment act 1995 providing the reservation in promotion was challenged. SC upheld the validity but proposed catch up rule.
- b. To nullify court's restrictions, 85th amendment act 2001 brought into existence which permitted the promotions with consequential seniority. It was challenged in Nagaraj case .

4. Nagaraj Case -2006

- a. Court upheld the validity of 85th amendment – The *Nagaraj* judgement laid down three controlling conditions that the State must meet prior to granting a SC/ST a reservation in promotion.
 - i. First, the State must show the backwardness of the class.
 - ii. Second, it must show that the class is inadequately represented in the position/service for which reservations in promotion will be granted.
 - iii. Finally, it must show that the reservations are in the interest of administrative efficiency.

Supreme court observation on reservation as fundamental right

1. In *M.R. Balaji v. State of Mysore*, SC decided that Article 15(4) is an “**enabling provision**”, meaning that “**it does not impose an obligation**, but merely leaves it to the discretion of the appropriate government to take suitable action, if necessary”.
2. In case of “**DMK v. Union of India**”, the Apex Court held that “Reservation is not a fundamental right”.
3. In the case of “**Mukesh Kumar v. State of Uttarakhand**” in accordance with Articles 16(4) and 16(4A) of the Constitution, the Supreme Court has decided that there is no fundamental right to have a reservation in “appointments and promotions” in public services.

Overall criticism of reservation policy

1. The policy of reservation was designed as an ad hoc policy for ten years. But it is continuing and getting extension after the end of every ten years. It is creating some sort of frustrations among the high caste people evident in Jat , Maratha, Gujjar, Patidar calls for reservation.
2. The Reservation Policy actually has created a “new class of vested interest” in the society.
3. The policy of reservation is contrary to the principle of equality. Special privileges and extra protection to certain classes of people is against the policy of equality. It violates the very spirit of democracy.
4. The policy of reservation of jobs is violating the efficiency and merit system of recruitment.
5. The policy of reservation has given rise to the politics of casteism in Indian political system

Suggestions

1. **Excluding the generation already taken benefits-** We can think of excluding those whose earlier generation has taken its benefit.
2. **Alternative to the reservation - “National Knowledge Commission”** has recommended alternatives Like scholarship, Free Residential hostel robust education system.
3. **Developmental Approach:** - Can check new kind of Protest from well off community from Haryana, Gujarat and Rajasthan
4. **Using SECC Data** and start a new discourse on Reservation Policy for the criterial of reservation.
5. **Sub Categorization within OBC & SC/ST**

Reservation in Private sector and reservation to locals in private jobs**Issue of the reservation in Private sector**

Haryana's state government recently announced the Haryana State Employment of Local Candidates Bill, 2020. Locals will be given priority in the private sector under this bill.

States like Madhya Pradesh, Karnataka, and Andhra Pradesh tried to give reservation in private jobs before Haryana. The question now is whether the state government's decision to give employment reservation in the private sector is constitutionally or legally correct.

Recent Decision of the Supreme court

1. The Supreme Court overruled a Haryana High Court order that had prevented the Haryana government from implementing its new quota policy, which included a 75 percent reservation for locals in private sector positions.
2. The Haryana government was also instructed by the Supreme Court not to take any punitive measures in response to violations of the State Reservation policy established under the Employment of Local Candidates Act.

Supreme court judgement on the reservation in private sector

1. The Supreme Court debated the question of legislation for "sons of the soil" in the case of Dr. **Pradeep Jain v Union of India (1984)**. Furthermore, the court expressed an opinion that such policies would be unconstitutional, but did not rule on it expressly.
2. **Sunanda Reddy v State of Andhra Pradesh (1995)**: In Sunanda Reddy v State of Andhra Pradesh (1995), the Supreme Court reiterated its earlier interpretation in the Dr Pradeep Jain case. Furthermore, the court overturns a state government policy that granted a 5% bonus to candidates who studied in Telugu as a medium of instruction.
3. In making appointments, the **Rajasthan government** gave preference to "people from the concerned district or the rural sections of that district." However, the Supreme Court of Rajasthan overturned the employment of government instructors in 2002.
4. A recruitment notification issued by the **Uttar Pradesh Subordinate Service Selection Commission** was struck down by the Allahabad High Court in 2019. In job appointments, the commission mandated that women who were born and raised in the state be given preference.

Arguments in favour of the Reservation on private sector

1. As a result of government choices that result in the closure or privatisation of many public sector enterprises, job possibilities in the public sector are dwindling.
2. Reservation policy is founded on the affirmative action principle, and it is required for the upliftment of socioeconomically disadvantaged persons. Reservation in the private sector is a mechanism to provide employment possibilities to these groups.
3. Because the private sector uses public infrastructure for its operational activities, it is the responsibility of the private sector to share government accountability.

Arguments against the reservation in the private sector

1. Reservation in the private sector is unlawful because it breaches Articles 14, 15, and 21 of the Indian Constitution, which protect the right to equality, the right to practise any profession or carry on any occupation, and the right to livelihood.
2. The state's employment, growth, livelihood, and socioeconomic development are all harmed by the private sector reservation policy.
3. It harms the business climate and has a detrimental impact on the government's ease-of-doing-business policy.

4. Governments are avoiding their role for employment creation, and during election seasons, they delegate this task to the private sector in order to appease their constituents.
5. By paying taxes, the private sector already contributes enough to society's socioeconomic development, and they also invest a percentage of their profits on corporate social responsibility (CSR). As a result, imposing a reservation policy to share jobs based on residence would be unjust.
6. Reservation policies that favour the local population may have an influence on our basic value of "equality and brotherhood," since they may cause animosity between locals and migrants, as well as pose a threat to the Society's peace and security.

Concluding line

The Supreme Court must clarify the issue of employment discrimination in private jobs. The Andhra Pradesh assembly's law has already been challenged in court. As a result, the Supreme Court must take a firm stance against job discrimination in the private sector. There should be voluntary incentive. The state government should prioritise better education, job creation, and skill development. It will compel businesses to hire more local youth on an automated basis.

ARTICLE 17 - Abolition of Untouchability

- Untouchability is abolished by the constitution and in any forms, is forbidden. It is an offence in accordance with law but Constitution does not define untouchability. According to judiciary, untouchability is not in literal sense except medical reasons any social disability on any person because of his birth will be treated as the practice of untouchability.
- Untouchability offences act 1955 renamed it as Protection of civil rights act 1976 defines civil rights with reference to untouchability.
- Untouchability is punishable and the practice of untouchability is also the basis of disqualifications in elections to parliament as well as state legislature. It is a right against private person. It is a constitutional obligation on the state to ensure that this right is not violated and to take necessary actions.
- Members of SC/ST community has also subjected to violence and hence the stronger law "Prohibition of atrocities against the members of SC/ST community have also been brought into existence.

Real Scenario

- **AS per the survey conducted by National council of applied economic research (NCAER) and university of Maryland** published in The Indian express the following observations are outlined: Even after 70 years of constitution, abolishing untouchability, 1/4th of Indians admitted that they practice untouchability.
- Persons practicing untouchability is not limited to Hindus, even Sikhs and Muslims also practice untouchability. Among Hindus most practiced by Brahmins and secondly by OBCs.

ARTICLE 19 - 22: Right to Freedom

It gives 6 freedoms and none of the freedom is absolute or there are reasonable restrictions on freedoms. What is reasonable restriction?

Freedoms in the western countries is a kind of supremacy to individual i.e., absolute freedom to individual and no importance to community. Like in France: freedom of speech and expression is absolute as people are considered as rationale there.

In India is confused whether to give more importance to individual or community. Order get primary status and freedom given secondary status. Hence Reasonable restrictions means.

Freedom can be made limited only by law and not by executive order

Freedom can be restricted only for the situations which is mentioned in the exception list like article 19(2) puts restrictions in the interest of sovereignty, security of state etc. It is for judiciary to examine whether the restriction imposed is reasonable or not. Constitution doesn't provide any measurement of reasonable. Judiciary is expected to interrupt reasonable restrictions from the perspective of reasonable man.

Article 19(1)(a): freedom of Speech & expression

Scholar's view on freedom of speech and expression

JS Mill

- He is considered as the greatest champions of freedom of speech and expression. He believed that it is necessary for the development of our personality.
- He considered freedom of speech and expression as foundation of democracy
- It is not possible to form sound public opinion without it.

Voltaire- He held that I disapprove of what you say but defend to my death your right to say so.

Thomas Jefferson & Benjamin Franklin

- They were the advocate of absolute liberty. According to them, "those who sacrifice liberty for the sake of security will have none"

Noam Chomsky- The rights can exist only in tolerant society. Toleration is a precognition for Freedom of speech and expression. Freedom of speech and expression means respecting views with which we may totally disagree.

Internet as the fundamental right

The right to internet encompasses two aspects:

1. The **positive** aspects of **internet access**,
2. **Negative** aspect of right to **talk and express oneself through the internet**.

Courts judgment on the right to internet

1. **In Anuradha Bhasin v. Union of India**

- a. The Hon'ble Supreme Court held that the right to freedom of speech and expression, as well as the right to practise any profession or carry on any occupation, trade or business over the internet, are constitutionally protected under **Articles 19(1)(a) and 19(1)(g)**.
- b. As a result, a negative right to the internet has been recognised, subject to the limitations imposed by Articles 19(2) and 19(6).

2. **Faheema Shirin v. State of Kerala.**

- a. The High Court recently recognised that mobile phones and internet access through them are an integral element of daily life.
- b. The court looked at resolutions passed by the UN Human Rights Council and the General Assembly that unambiguously state that internet access is critical for obtaining information and has a close link to education and knowledge. The right to access the internet, according to the court, has been read into the fundamental rights to life, liberty, and privacy under Article 21.

3. The court went on to say that it is an important aspect of the infrastructure of free speech and expression.

Conclusion

As per the socio-democratic theory of free speech's in substantial perspective, the right to the internet must be explicitly recognised by the state. In addition to expressing recognition of the right, the government must intervene and regulate the market, as well as establish policy on meaningful internet access.

Freedom of Press

In India, it is inherent in freedom of speech and expression. In "**Brij Bhushan case**" SC has clarified that freedom of press is inherent in freedom of speech. Freedom of press means there is no censorship or pre-censorship, it means media is not controlled by govt.

In Indian express case, it has been clarified that freedom of press includes right to access information, print, publish and circulate. Article 361 A added by the 44th amendment act 1978 also grants protection to publications of proceedings of parliament and state legislatures. According to this, no person shall be liable to any proceedings civil or criminal in any court w.r.t publication in a newspaper of substantially true report of any proceedings in parliament or legislature unless:

- Publication has been proved malaise
- Until and unless it is a secret sitting of parliament or legislature

Freedom of press has **three essential elements**. They are:

- Freedom of access to all sources of information,
- Freedom of publication, and
- Freedom of circulation.

However, The Hon'ble Supreme Court observed in Union of India v/s Association for Democratic Reforms, "One-sided information, disinformation, misinformation and non-information, all equally create an uninformed citizenry which makes democracy a farce.

Scholar's View on Media

- **Pulitzer in "Ethics & Media"** said without high ethical standards, media is not only stripped of its social responsibility it becomes a dangerous entity.
- **Nehru said**, "I will support free press with all dangers involved in the wrong use of freedom rather than repressed and regulated press".
- **Thomas Jefferson's** statement said that "I would prefer free press without govt. rather govt. without free press".
- **Rajiv Gandhi's** statement was "Freedom of media is an article of faith sanctified by the constitution and indispensable for the future of nation"
- **Dr. Ambedkar**, Chairman of the Drafting Committee, said that no special mention of the freedom of press was necessary at all as the press and an individual or a citizen were the same as far as their right of expression was concerned.

Why there is debate on Freedom of Press now

- **Yellow journalism** - Glorification and romanticization of the news, to an extent that it loses its essence. Media today from news to advertising rely on spectacle, simplification and exaggeration to grab and hold audiences

- **Concentration of the media houses in few hands:** - As per the reports of Data LEADS and Reporters Without Borders, only a few people control ownership. Most of the Indian media houses are owned or controlled by politically affiliated people.
- **Steady growth of Pseudo scribes** who take to journalism to gain access to power, position and institutions.
- **Lack of Integrity and Impartiality**
- The problem of hate speech is compounded when propagated by members of the press
 - This appears to be true in case of the attacks on Umar Khalid and perhaps, even in case of the activists arrested in relation to the Bhima Koregaon incident.

Regulation of Media in India

- **The News Broadcasting Standards Authority (NBSA),** of the NBA, is empowered to warn, admonish, censure, express disapproval and fine the broadcaster a sum up to Rs. 1 lakh for violation of the code.
- **Press Council of India:** - The PCI has the power to receive complaints of violation of the journalistic ethics, or professional misconduct by an editor or journalist.
- **Central Board of Film Certification:** - For screening films including short films, documentaries, television shows and advertisements in theatres or broadcasting via television the Central Board of Film Certification (CBFC) sanction is required.

What is the present law and rule for regulation of Electronic media?

- **Section 69(1) of the Information Technology Act, 2000** allowed for intervention of information in the interest of the country's sovereignty and integrity, security of the state, friendly relations with foreign states, or public order or for preventing incitement to the commission of any cognizable offence.
- **Section 79 of IT Act:** - An intermediary shall not be liable for any third party information, data, or communication link made available or hosted by him.

Draft Registration of Press and Periodicals Bill, 2019

Features of the Bill: -

- The publishers of news on digital media shall register themselves with the Registrar of Newspapers for India in such manner and giving such particulars as may be prescribed in draft.
- It's not clear whether the Bill applies only to web versions of print publications or to digital-only news sites as well
- The confusion arises as the word "publication" has been defined in the draft as "anything which is printed on paper and is meant for public distribution including periodicals, newspapers and books".
- The draft legislation also proposes to remove the provisions of imprisonment of publishers and to simplify the registration process by instituting a Press Registrar General.
- It has also proposed a simple system of registration of e-papers.

Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021

These rules were drafted under the authority of section 87 (2) of the Information Technology (IT) Act, 2000, and they supersede the previous Information Technology (Intermediary Guidelines) Rules 2011.

Features of the New rules

1. It establishes a grievance redress system for the country's over-the-top (OTT) and digital portals. This is vital for social media users to express their dissatisfaction with the misuse of social media.

2. Significant social media companies must hire a chief compliance officer and maintain a nodal contact person who can communicate with law enforcement agencies 24 hours a day, seven days a week.
3. A grievance officer would be appointed by social media sites, who will be responsible for registering grievances within 24 hours and resolving them within 15 days.
4. Removal of content: If there are complaints concerning exposed private parts of individuals, nudity, sexual acts, impersonation, or other content that violates the dignity of users, particularly women, social media platforms will be compelled to remove it within 24 hours of receiving the complaint.
5. They will also be required to publish a monthly report on the number of complaints received and the status of remedies.
6. Self-regulation, a self-regulatory body led by a retired judge or a distinguished person, and oversight from the Information and Broadcasting Ministry, which will include codes of practise and a grievance committee, will be the three layers of regulation for news publishers.

Overall significance of the New rules

1. The Rules are designed to give users of social media and over-the-top (OTT) platforms a reliable way to voice their complaints.
2. They place a special emphasis on protecting women and children on social media from sexual offences.
3. The rules emphasise the need of online content creators and social media intermediaries according to the country's Constitution and domestic laws.
4. With these guidelines, India joins other international regimes that regulate digital media and provides a complete structure for digital media consumers' protection.

Hate speech

What is hate speech

Hate Speech is an effort to marginalize individuals based on their membership in a group. It seeks to delegitimize the group members in the eyes of majority thus renders them vulnerable to further attacks.

T K Visvanathan Committee on Hate Speech

- SC observed that the issue of hate speech **deserved deeper consideration** for with Law Commission submitted its report and **TK Visvanathan Committee** was formed to assist the government in establishing a legal framework to deal with cybercrimes related to hate speech and examine Law Commission's report.
- **Art 19** restricts speech on grounds public order, incitement to an offence at all.
- IPC Sec 295(a)- by words or visible representation or otherwise insults the religion or the religious beliefs of a class shall be punished.
- **Observations** of the Committee-
 - **Insert substantive provisions in the IPC instead of IT Act, since its primarily for e commerce regulation.**
 - Sec 78 of the IT Act primarily 'dealt with capacity building' needs to be relooked to **sensitize the officers** and give them support with electronic expertise, computer forensics.
 - It has **recommended amendments in CrPC** to enable each state to have a **State Cyber Crime Coordinator (Sec 25B)** and a **District Cyber Crime Cell (Sec 25C)**
 - The offensive speech should be uttered with the intention to cause **"fear of injury or alarm"**.
 - There should be guidelines to prevent abuse of provision by investigative agencies

- **Concern-**
 - The Law Commission identifies the status of the **author of the speech, the status of victims of the speech, the potential impact of the speech**, in order to qualify something as **Hate Speech**. However, these concerns are apparently **not well reflected in the committee report**.
 - Besides, extremely broad terms like, highly disparaged, indecent, abusive, inflammatory, false or grossly offensive information have been used by the report which takes us back to the ambiguity of **Sec 66A of IT Act**.

Right to information (RTI)

It is a part of speech and expression. RTI is implicit in freedom of speech and expression.

History and evolution of RTI

- **PHASE 1-1975 to 1996-** There were infrequent, irregular demands to public and private authorities for information, from various constituent social groups, coming to a crescendo in more focused ones in the mid-1980s.
- **PHASE 2-1996 to 2005-** This phase is marked by the formulation of a draft RTI bill, spearheaded by the NCPRI. Rapid growth in size and influence of the RTI movement in India was seen, and as the National RTI Act was passed in 2005
- **PHASE 3-2005 to (present)-** Consolidation of the act and on pushing for proper implementation has been taken up as the new challenge. Part of the effort has also been to afford protection to the RTI Act from any attempt to weaken it by those in power and being called "public" authorities.

SC view on RTI

- **In Raj Narayan Vs state of UP -1975** people of the country have right to know what is being done by a public functionary in public sphere. In democracy, there can be but few secrets.
- **SP Gupta Vs Union of India case-1982** held that RTI is implicit in Article 19 and secrecy can be justified only in exceptional situations.

Govt has brought RTI in 2005 so that people are able to exercise their RTI practically.

Importance of the RTI Act -2005

1. Before passage of RTI Act, disclosure of information held by public authorities in India was governed, exclusively, by the Official Secrets Act, 1923. It was a legacy of the British colonial rule, encouraged secrecy and opaqueness in administration
2. **Citizen empowerment:** For most other laws, the executor of the law is government; and the citizen is normally required to comply by these laws. The RTI Act is the very opposite. Here, the citizen is the executor and the government has to act in response to a directive from the citizen. Information seekers need not give a reason for demanding the information held by public authority or prove his/her locus standi for it. This allows activists and civil society organizations to take up issues on behalf of the marginalized and the un-empowered
3. **Elements of good governance strengthened by it.**
 - **It is compared to sunlight as a natural disinfectant of corruption**
 - **It enhances transparency. in the functioning of the government.**
 - Enforces accountability of officials
 - It encourages citizens' participation in decision making

Features of the RTI act 2005

- Any citizen can seek public information from public authority.

- The public authority is bound to provide information within 30 days and 48 hours if it is related with life and liberty of the individual. For this purpose, PIO is appointed in all government offices and in case of failure to provide timely information, penalty can be imposed.

Success stories

- Adarsh society scam which led to resignation of the then Maharashtra CM relied on RTI for revealing politicians- military official's nexus.
- Public disclosure of IIM admission criteria through RTI route.

Way forward

- **ARC recommendations**
 - Replacing oath of secrecy with oath of transparency
 - Allocation of separate budgets for record management
 - Enactment of effective grievance redressal system will reduce the burden of misdirected RTI applications for grievance.
- Political will at the highest level.

Issues with the RTI currently

1. Lack of capacity in adjudicatory bodies like SIC and CIC: 80% posts are lying vacant
2. Lack of ownership by states has resulted in financial crunch to implement the act
3. Quality of information disclosed is poor.
4. Misuse of exemptions under Section
5. Official secret act to bypass responsibility
6. Inadequate efforts on the front of Suo- Motu declaration of Info - Sec 4(1)
7. Lack of digital record management lead to pendency of the information.
8. Slow progress on proactive disclosure of information
9. Lack of awareness about the act specially Among Females and Backward communities as highlighted by 2nd ARC.

Unintended consequences

- It is misused against honest public officials. This increases the time of decision making due to fear of malafide RTI applications
- Since some information demands are voluminous in nature, it cost the time of public officials, leading to inefficient administration.

Concluding line

- Studies showed that close to 70 per cent of the RTI applications sought information that should either have been made public proactively or communicated to the applicant without needing to file an RTI application e.g. related to use of public resources, norms related to functioning etc. Hence the solution is to make the authorities more proactive in providing information, so as to reduce the administrative load to reply to separate RTI queries

CJI as public authority under RTI:

1. Constitutional bench of SC declared that office of CJI as public office
2. 2007 it was said "every Judge should make a declaration of all his/her assets in the form of real estate or investment".
3. this declaration of assets was made to the Chief Justice of India and was not even voluntary in nature to put it out in public domain.

4. CIC told that CJI is a public office
5. SC moved to High court challenging the ruling of CIC.
6. HC upheld the CIC ruling, then SC approached itself and it was given to 5 judge constitutional bench.
7. It declared CJI post is based in article 124 so it is a public authority.
8. It states that declaring assets of serving judge doesn't violate the right to privacy
9. Assets of judges do not constitute personal information so it cannot be exempted from RTI.
10. It also told that RTI is not absolute, it has to be balanced with right to privacy
11. It asked for test of proportionality keeping in mind right to privacy and independence of judiciary

Article 21

Article 21 – contains Right to life liberty and also its curtailment in certain cases. Curtilment can be done by procedure established by law which means No person shall be deprived of his life or personal liberty except according to procedure established by law.

The Supreme Court has reaffirmed its judgement in the **Maneka Gandhi case** in the subsequent cases. It has declared the following rights as part of Article 21:

1. Right to live with human dignity.
2. Right to decent environment including pollution free water and air and protection against hazardous industries.
3. Right to livelihood.
4. Right to privacy.
5. Right to health.
6. Right to free education up to 14 years of age.
7. Right to free legal aid
8. Right to speedy trial
9. Right against bonded labour.
10. Right against custodial harassment.
11. Right to emergency medical aid.
12. (Right to timely medical treatment in government hospital.
13. Right of women to be treated with decency and dignity.
14. Right to information.

Due Process of Law Vs Procedure Established by Law

- Constitution has provision that - Right to Life and Liberty under Article 21 can't be taken away except under the Procedure Established by Law
- **Gopalan case -1950**
 - SC assumed the restrictive meaning of procedure established by law
 - It does not mean due process of law so when right to life and liberty is curtailed through a right procedure by a law it cannot be questioned in a court it can only question the executive action under the law.
 - This restrictive meaning narrowed the scope of rights to citizens by closing the door of justice for arbitrary legislative actions
 - Petitioner challenged his detention under preventive detention claimed that detention was arbitrary
 - Article 21 provides protection only from Executive decisions and not Legislative decisions and a Legislation to deprive Right to Life is permitted.
- **Maneka Gandhi case - 1978**

- Through the **doctrine of prospective overruling** SC revises its judgement Expanded the domain of Article 21 and made it consistent with the Due Process of Law as in USA, that allowed the judiciary to scrutinize the Wisdom of Law
- It includes **both** procedural and substantive aspects of law.it is possible to scrutinise both legislative and executive action, broadens the scope of right of citizen and push the judiciary in active phase
- The law should pass the test of reasonable procedure of law and if reasonable procedure is not permitted law itself is arbitrary.

Concluding line

- During independence and immediately after it, recognising the constraint of state SC took narrow view of what constitute life, many rights has been put under DPSP, but now the right to life has been given an expanded meaning with recognition of new rights like right to environment, Right to information and right to privacy etc.

Article 21 (A) – Right to Education

Right to education(RTE) is an essential human right of all children recognized by UNDHR. Indian educational system is notorious for being extremely exclusive. Large no. of people was excluded because of the caste system.

Education remain neglected even during Muslim ruler left on Ulemmas. Britishers introduce education but was not a benevolent act. The mass education remained neglected and it was acknowledged in wood's dispatch. In 1911 Gokhale moved private member bill in Imperial legislative council. Constitution of India had put the goal of elementary education under DPSPs.

Judicial and legal development over the time on RTE

1. It was because of SC that ultimately RTE has been included in fundamental rights. In 1992 in "**Mohini Jain Vs State of Karnataka**" SC held that **RTE is a fundamental right.**
2. **86th amendment act 2002** which **introduced article 21A**. It says state shall provide free and compulsory education to all children of age 6-14 in the manner as the state may by law determine.
3. In "**Unnikrishnan Vs State of Andhra Pradesh**" **SC held that** Every citizen has fundamental right to education under the constitutions.RTE is a part of right to life and every child has right to education until he completes the age of 14 years. However, it would not be a non-qualified right depends on state's capacity.

Constitutional validity of RTE has been challenged by private schools again and again because the act provides reservation of seats (25%) for economically weaker sections (EWS) and disadvantaged sections. It excluded Madrasas and Vedic pathshalas.

1. It was challenged in 2012 in "**society for unaided private schools of Rajasthan vs Union of India**". Petitioner challenged that
 - i. It should not include private aided, private unaided minority aided, minority unaided.
 - ii. Reservation is permissible only on the grounds of caste and not on the ground of economic status
 - iii. **SC response** - SC upheld the validity. It is a child centric law. Hence reservation to EWS is not unconstitutional. It only excluded unaided minority schools.
2. "**Pramati educational and cultural trust Vs union of India**" case again challenged RTE act. This time also challenged article 21A, Article 12(5) challenged on the ground that it destroys the basic structure.
 - a. **SC response** - SC has upheld the validity of 21A & 15(5). It does not erode right to do business under Article 19(1)(g).
 - i. Article 21A doesn't destroy the basic structure but it does harm the commercial interest of private school lobbies of India. It can be realised only when govt. education system is revamped.

Article 22

- **Article - 22. (1)** No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.
- **Article 22 (2)** -Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate

Article 23-24: Right against exploitation

- **Article 23(1)** -Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law
- **Article 23(2)**- Nothing in this article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them.

Article 24

No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment. Child Labour:

Guru Parth Swami committee recommendation: Include it thoroughly

- Statutory provisions + National child labour policy + Recent actions of govt. like RTE act + role of national commission for protection of child right

Article 25-28: Right to freedom of Religion**Importance of religious freedom**

Religious freedom protects people's right to live, speak, and act according to their beliefs peacefully and publicly. It protects their ability to be themselves at work, in class, and at social activities. Religious freedom is more than the "freedom to worship" at a synagogue, church, or mosque. It makes sure they don't have to go against their core values and beliefs in order to conform to culture or government.

- **Article 25(1)** Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.
- **Article 25(2)(a)** - Regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice; This also establishes that state is above church. Explanation: The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion.
- **Article 25(2)(b)**- Providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.
- Explanation: the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jain or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.
- Throwing Hindu religious institutions of public character to all classes of Hindus.
 - Above provision is criticised by Hindu rightist section as an example of pseudo-secularism throwing religious institutions of only one religion open. However, as per Rajeev Bhargava "Indian secularism is based on principled distance rather than equi-distance".

Article 26: Freedom to manage religious affairs

This is available to only religious denominations & not individuals. It is available to both citizens and non-citizens. Thus, another stronger feature of secularism where religious denominations also have fundamental rights. Subject to public order, morality and health, every religious denomination or any section thereof shall have the right

3. To establish and maintain institutions for religious and charitable purposes;
4. To manage its own affairs in matters of religion;
5. To own and acquire movable and immovable property
6. To administer such property in accordance with law

Fundamental rights to acquire property and own property of a person is no more a fundamental right but continues to be the fundamental rights of institutions or religious denominations. Right to administer such property in accordance with law.

Article -27 –Taxes

No person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.

Article 28: Related to Religious freedom

Above freedom is based on Gandhian view that religion is a positive force, hence, there is no ban or religious instructions in educational institutions. As per the constitution

1. **Article 28(1)** -No religious instruction shall be provided in any educational institution wholly maintained out of State funds.
2. **Article 28(2)**- Nothing in clause (1) shall apply to an educational institution which is administered by the State but has been established under any endowment or trust which requires that religious instruction shall be imparted in such institution
3. **Article 28(3)** No person attending any educational institution recognised by the State or receiving aid out of State funds shall be required to take part in any religious instruction that may be imparted in such institution or to attend any religious worship that may be conducted in such institution or in any premises attached thereto unless such person or, if such person is a minor, his guardian has given his consent thereto.

Article 29-30: Cultural & educational rights of Minorities

It is minority that requires special protection because it is natural for minority to feel insecure. It is responsibility of majority to give assurance to minority. India is one of the earliest example of multicultural citizenship. As far as political sphere is concerned we have gone for universal citizenship i.e., universal adult franchise and joint electorate. As far as cultural sphere is concerned, we have gone for multicultural citizenship.

Article 29 (1)

This is w.r.t conservation of distinct language, script or culture. This right is available to any sections of citizens not necessarily religious or linguistic minorities in Article 30.

Article 29(2)

No citizen to be denied admission in any educational institutions: Maintained by state or Receiving aid out of state. No citizen shall be denied admission on following grounds: Religion, Race, Caste and Language

Article 29(2) will not be a limitation on article 15(4)

1. **Article 30** - Rights of minorities to establish and administer educational institutions of their choice. Here minorities are mentioned as religious or linguistic minorities. Though every section of the citizen has the right to conserve their script or culture but in case of religious and educational minorities, special rights to establish educational institutions is also given.
2. **Article 30(1)(A)** - In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, referred to in clause (1),

the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause. - 44th amendment, 1978.

3. **Article 30(2)** - The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language. State shall not discriminate against minority institutions in granting aid. Fundamental rights of minority institutions w.r.t property is also recognised. If state acquire their property it has to pay compensation as determined by law.

Special rights to minorities becomes the basis for criticism by Hindu rightist sections that constitutional secularism is minority appeasement. Non-enforcement of UCC is also treated as minority appeasement. It is wrong to consider above rights as minority appeasement rather they are the distinctive features of Indian secularism

According to Rajeev Bhargava "Indian model is contextual. Above provisions has its origin in freedom movement. In freedom movement there were two conflicting ideas

1. Idea of India i.e. secular nation where minorities need not fear the tyranny of majority
2. Idea of Pakistan which advocated separate homeland on the ground of religion based on fear that once democracy will come, minority customs and traditions will be forced to be changed.

According to D.E Smith, who has done the 1st work on Indian secular state held that

- **Minorities are custodians of secularism.** D.E Smith has produced one of the earliest academic work on Indian secularism.
- He acknowledges the role of minorities in the formation of secular foundation in Indian state.
- Had there been no active protest by minorities or non- dominant sections, India would have not granted the special rights to these communities. The way minorities organise themselves will also shape the future of secularism in India.

For centuries in the past, the Indian society had been a divided society before the law as it was structured on a caste based hierarchical social order according to which human persons in their essential nature are not equal by birth. In this particular social and religious milieu, which seems to be unique to Indian society, article 17 together with article 15 (2) (4) and article 25 (2) (b) 276 have the revolutionary potential to carry forward social reform and to transform the caste ridden Indian society into an egalitarian social order, wherein the inalienable worth and dignity of each individual person as a moral subject is affirmed and protected by the secular law of the Constitution.

Article 31- It's no more a fundamental right. It was repealed by the 44th constitutional amendment act of 1978.

Article 32: Right to constitutional remedies

According to Ambedkar, Article 32 is the soul of Part III. According to SC, it is the basic structure of the constitution and can't be abridged or taken away by even amendment.

Rights under Article 32

Right to enforcement of fundamental rights: here person can approach directly to SC for earliest remedy of infringement of Fundamental rights. It is the original though not exclusive jurisdiction because person can also go to GC under Article 226. Person can approach SC to get writs issued. SC can issue writs including in the nature of the following:

1. **Habeas Corpus:** Means "Bring the body". In case of Habeas corpus is sought, it is not granted in case of contempt of court or contempt of legislature or if the matter is not under jurisdiction of SC like international laws.

2. **Mandamus:** Means “We command”. It is the order given to the public authorities now also includes tribunals and inferior courts.
3. **Prohibition:** It is of judicial nature not granted against legislature, administrative authorities or private individuals.
4. **Certiorari:** It means “Quash” the decision of inferior courts. Earlier it was only for judicial bodies but since 1991, it is also against administrative bodies.
5. **Quo Warranto:** It means “By What authority”. It is to be issued in the case of substantive public office of permanent nature and not ministerial post or private office. Person has right to move to court by appropriate proceedings and not defined in the constitution.

Public Interest litigation (PIL)

PIL in India is imported from USA. PIL system in India is evolving. In SC Gupta case 1982, Supreme court of India has explained the concept of PIL. Any member of public organisation any social group acting bonafide may invoke the jurisdiction of SC or HC for redressal of grievances related to fundamental rights, legal rights, constitutional rights on behalf of those who because of poverty or any other disability, social or otherwise is unable to approach the court.

- **In Mumbai Kamdar Sabha vs Abdul Bhai case**, SC explained the objective of PIL. objective is to bring India’s laws in confirmly with global trends in human rights jurisdiction.
- **In PUDR Vs Union of India 1982 case**, SC further explained that the objective is to give access to justice for downtrodden and vulnerable.

PIL has increased the burden of SC many times. There has been the use of PIL for private and political interest. Hence from time to time SC has prescribed guidelines.

1. If matter is related to **criminal issues**, then the court to be approached by the **aggrieved** person.
2. **PIL is not a fundamental right.** It is court’s jurisdiction to grant PIL.
3. It should not be treated as **political interest or private interest litigation.**
4. Great care should be taken in approaching the court.
5. **In Dattaraj N. Thaware Vs State of Maharashtra SC** held that the person should come with
 - a. Clean hands
 - b. Clean Mind
 - c. Clean Objective
 - d. Clean heart

Criticism of fundamental rights

The Fundamental Rights enshrined in Part III of the Constitution have met with a wide and varied criticism. The arguments of the critics are:

1. **No Social and Economic Rights-** The list is not comprehensive as it mainly consists of political rights. It makes no provision for important social and economic rights like right to social security, right to work, right to employment, right to rest and leisure and so on.
2. **Excessive Limitations** They are subjected to innumerable exceptions, restrictions, qualifications and explanations. Hence, the critics remarked that the Constitution grants Fundamental Rights with one hand and takes them away with the other.
 - a. **Jaspal Roy Kapoor** went to the extent of saying that the chapter dealing with the fundamental rights should be renamed as ‘Limitations on Fundamental Rights’ or ‘Fundamental Rights and Limitations Thereon’.
3. They are **stated in a vague, indefinite and ambiguous manner.** The various phrases and words used in the chapter like ‘public order’, ‘minorities’, ‘reasonable restriction’, ‘public interest’ and so on are not clearly defined.
4. **They are not sacrosanct or immutable as the Parliament can curtail or abolish Them**
 - a. For example, the abolition of the fundamental right to property in 1978.
5. **Suspension During Emergency -** The suspension of their enforcement during the operation of National Emergency (except Articles 20 and 21) is another blot on the efficacy of these rights

- 6. Preventive Detention** The critics assert that the provision for preventive detention (Article 22) takes away the spirit and substance of the chapter on fundamental rights. It confers arbitrary powers on the State and negates individual liberty. Notably, no democratic country in the world has made preventive detention as an integral part of their Constitutions as has been made in India
- 7. No Consistent Philosophy-** According to some critics, the chapter on fundamental rights is not the product of any philosophical principle.
- a. Sir Ivor Jennings expressed this view when he said that the Fundamental Rights proclaimed by the Indian Constitution are based on no consistent philosophy.²⁵ The critics say that this creates difficulty for the Supreme Court and the high courts in interpreting the fundamental rights.

Significance of fundamental rights

Fundamental Rights are significant in the following respects:

1. They constitute the bedrock of democratic system in the country.
2. They provide necessary conditions for the material and moral protection of man.
3. They serve as a formidable bulwark of individual liberty.
4. They facilitate the establishment of rule of law in the country.
5. They protect the interests of minorities and weaker sections of society.
6. They strengthen the secular fabric of the Indian State.
7. They check the absoluteness of the authority of the government.
8. They lay down the foundation stone of social equality and social justice.
9. They ensure the dignity and respect of individuals.
10. They facilitate the participation of people in the political and administrative process.

Fundamental Duties

It is not in original constitution but introduced by the **42nd constitutional amendment act** on the recommendation of **Swaran Singh Committee**.

Mentioning the fundamental duties is a tradition of socialist countries. There was a fear that govt. of the day is bent on changing the very foundation of the Indian constitution.

It has been controversial since its inception

- The very 1st question on the legitimacy of the fundamental duties is the timing when it was introduced.
- Fundamental duties are also not enforceable so, technically it is not desirable to add ornamental parts.
- There was no need of fundamental duties because laws were already existing w.r.t many duties mentioned here.

List of Fundamental Duties: PART IV(A)

1. To abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
2. To cherish and follow the noble ideals which inspired our national struggle for freedom;
3. To uphold and protect the sovereignty, unity, and integrity of India;
4. To defend the country and render national service when called upon to do so;

5. To promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic, and regional or sectional diversities; to renounce practices derogatory to the dignity of women;
6. To value and preserve the rich heritage of our composite culture;
7. To protect and improve the natural environment including forests, lakes, rivers, wildlife and to have compassion for living creatures;
8. To develop the scientific temper, humanism, and the spirit of inquiry and reform;
9. To safeguard public property and to abjure violence;
10. To strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement;
11. Who is a parent or guardian, to provide opportunities for education to his child, or as the case may be, ward between the age of six to fourteen years

Issues w.r.t some specific duties

- **It is the duty to cherish the noble ideal which inspired our national struggle.** It is not clear which ideals because national movement was a series of events and there were diverse movements, revolts and perspectives to the Indian national movements.
- **Duty of citizens to develop scientific temper** but how the country like India being a traditional society, Illiteracy and other constraints expected to develop the scientific temper as duty.
- **Duty of citizen to respect composite culture** but what is composite culture is not clear being a diverse country it consists of different identity, ethnicity and language defining composite culture is very difficult in this sense.
- **Fundamental duties had not made any change in the quality of citizens in India.**

Suggestions

- Verma committee was appointed to give suggestions on the fundamental duties. According to them, it should be constitutional obligation of the state to educate citizens.
- NCRWC also supported Verma Committee recommendations
- Civil Society, media, educational institutions should create awareness New duties can be added like payment of taxes, duty to vote, responsible parenthood, CSR etc.

Concluding line

- **Mahatma Gandhi in Hind Swaraj** observed that **“Real rights are a result of the performance of duty”**. Rights and duties are closely related and cannot be separated from one another. Rights and Duties are the two sides of the same coin. Achieving the constitutional vision and the vision of founding fathers enshrined in preamble needs a perfect balance of rights and duties.

DPSP –Directive principles of state policy

The concept behind the DPSP is to create a '**Welfare State**'. In other words, the motive behind the inclusion of DPSP is not establishing political democracy rather, it's about **establishing social and economic democracy in the state**. These are some basic principles or instructions or guidelines for the government while formulating laws/policies of the country and in executing them.

According to Dr B R Ambedkar, these principles are '**novel features**' of the **Constitution**. DPSP acts as a guideline for the state and should be taken into consideration while coming up with some new policy or any law. But no one can compel the State to consider and follow all that which is mentioned in DPSP, as DPSP is not justiciable.

Constitutional provisions

- DPSP covers the Articles 36-51 in Part IV of the constitution.

Purpose or the significance of the DPSPs

1. **DPSP gives the philosophical foundations of a welfare system.** These principles make it a responsibility of the State to secure it through welfare legislation.
2. **Directive Principles can be called as the positive directions for the State** which helps in securing social and economic dimensions of democracy.
3. **Directive Principles of State Policy make it possible for people to measure the worth of a government and its working.**
4. **The Directive Principles constitute a manifesto of a Nation.** These reflect the ideas and views which were there in the mind of the drafters while drafting the constitution.
5. **DPSP are like a source of continuity in the Governance of the country** – In a democratic system, the Governments change after regular elections so the presence of such guidelines is really important because it ensures that every Government will follow the set of principles in the form of DPSP while formulating its laws.

Scholar's view on DPSP

- **Granville Austin**
 - DPSPs are conscience of the constitution.
 - Preamble, fundamental rights and DPSPs together are soul of the constitution.
- **Dr. Ambedkar**
 - DPSPs don't have legal sanctions but enjoy political sanctions.
- **BN Rau**
 - Initially both fundamental rights and DPSPs have been presented together but DPSPs have been made non-enforceable because of the lack of resources. If DPSP's would have been made enforceable the country would have gone into constitutional crisis.

Controversies related to DPSPs

1. **Non –enforceable nature in court of law.**
 - As per article 37, DPSPs are not enforceable in the court of law (They aren't enforceable automatically like Fundamental rights but become enforceable only when law is enacted). Technically, constitution should not have ornamental or such parts which are not enforceable in the court of law.
2. **Put constraints on the choice of the future generations.**
 - It is not correct to bind future generations to social contract reached by previous generations.
3. **Undermine the federal distribution of power**
 - Union govt. gets powers to make laws and policies on the subjects of state list like panchayats, land reforms, rural development, cottage industries etc.
4. **DPSP are criticised by some as pious aspirations,** moral sentiments, dustbin of sentimental, new year resolutions. Above criticism reflect dissatisfaction of those who wanted DPSPs to be given equal status with fundamental rights and should have been made enforceable
5. **Creates friction between executive and judiciary leading to litigations –**
 - DPSP and fundamental rights often contradict with each other resulting into long litigations and friction between executive and judiciary.

Relationship between Fundamental rights and DPSPs

Both Fundamental rights and DPSP carries some set of rights one promotes political whereas other promote social and economic rights. They are integrated in such manner that in Nehru report both were part of the same document.

Opinion of judiciary**1. Champakam Dorairajan case:**

- Fundamental rights are superior to DPSP in their legal status. DPSP are nevertheless important. Each part of constitution is important. A harmony or equilibrium to be achieved b/w fundamental rights and DPSPs. It should not happen that one part loses the significance. Hence, judiciary directed that by ordinary law fundamental rights can't be abridged to give effect to DPSP but by amendment in Part III, it can be implemented.

2. Golaknath Case 1967:

- Overruled its earlier judgement and has given distinct supremacy to fundamental rights. Fundamental rights can't be abridged for giving effect to directive principles even by amendment. 25th amendment act 1971 introduced article 31C. This was government's attempt to establish harmony b/w part III and Part IV. In order to implement the directives given in 39B and 39C the law giving effect to these directives shall not be challenged on the ground that it contradicts fundamental rights article 14 & 19.

3. Keshavanand Bharati case 1973:

- SC upheld the validity of 25th amendment act. Judiciary also recognised that both parts are important. Judiciary had gone for the application of "Doctrine of Harmonious constitution". 42nd amendment 1976 destroyed the balance achieved in 25th amendment act and the harmony recognised in Keshavanand Bharati Case. It amended article 31C - any law implementing any directive shall not be challenged on the ground that it contradicts fundamental rights given in article 14 & 19.

4. Minerva Mills case 1980:

- SC declare above section of 42nd amendment act as null and void. Court restored the position as existing in 25th amendment act re-established the harmony

Fundamental Rights and the DPSP are supplementary to each other and are essential to meet the social and economic dimensions of a democratic government.

Concluding line for DPSP

- The significance of DPSPs cannot be looked down upon just because it is not enforceable in any court of law. These principles were added to facilitate the governance and smooth functioning of the country. It was added to meet the main objectives and the ultimate goal of a country i.e. to work for the welfare of its citizens., so we can't say that DPSPs are not implemented and have no importance at all.
- It is like a structure given for the government and it should work and formulate new laws revolving around that structure only so that the welfare of the people be ensured. Every policy and law formulated by the state has to meet the standards which are mentioned in Part IV of the Constitution.

Judicial review and Doctrine of Basic structure**Judicial review**

Definition

Judicial review is the power of the courts to assess the constitutionality of acts by government organs and declare them unconstitutional if they violate or contradict the Constitution's core principles

Introduction part

The process by which the Judiciary reviews the validity of laws passed by the legislature. In the Constitution of India, **Article 13** deals with Judicial review. Judiciary has power to review acts of parliament and acts of executive.

In democratic countries there prevails the doctrine of judicial review to ensure the rule of law.

Judicial review involves the work of:

- Expounding the provisions of the constitution
- Exercise of the power to declare any law or administrative acts void, if it is inconsistent with the provisions of the constitution.
- It aims to ensure constitutionalism, checks and balances, and protect fundamental rights.

In countries with written constitution, courts not only interpret the ordinary laws but also the constitution. The court acts as the supreme interpreter and the guardian of the constitution. The executive and the legislature are the political bodies. Hence, they cannot be seen as neutral interpreter.

Constitutional provisions supporting Judicial review

1. **Article 13** declares that any law which contravenes any of the provisions of the part of Fundamental Rights shall be void.
2. **Articles 32 and 226** entrusts the roles of the protector and guarantor of fundamental rights to the Supreme and High Courts.
3. **Articles 131-136** entrusts the court with the power to adjudicate disputes between individuals, between individuals and the state, between the states and the union; but the court may be required to interpret the provisions of the constitution and the interpretation given by the Supreme Court becomes the law honoured by all courts of the land.
4. **Article 137** gives a special power to the SC to review any judgment pronounced or order made by it. An order passed in a criminal case can be reviewed and set aside only if there are errors apparent on the record.

History

The Doctrine of Judicial Review has evolved over the course of several years, however it is important to understand the genesis of the doctrine.

The concept of **Judicial Review was first originated in America**, established through the case of **Marbury v. Madison**. Jurists have long argued that this is one of the most important cases in American Legal history.

In India

Constitution through the several provisions provides for the judicial review – the articles are mentioned above. Apart from the constitutional provisions there are various judgements of the supreme court which has evolved with respect to judicial review.

1. **L. Chandra Kumar v. Union of India**- Judicial review power of the High Court and the Supreme Court under Article 226 and 227 of the constitution was recognized in this case.
2. **Kesvananda Bharti v State of Kerala**, spoke about the importance of judicial review in today's time. He added that judicial review has become an important part of our constitution. Furthermore, it was said that a force has been vested in the High Courts and the Supreme Court to decide about the constitutionality of the provisions in different statutes.
3. **Indira Gandhi vs Raj Narain Case 1975**- Judicial review is considered a basic structure of the constitution.

Theoretical approaches to the judicial review

There has been debate on the interpretation of the law by the judiciary on the question that in which manner the judiciary can review the laws made by the parliament. Traditions of interpretation:

1. Traditional Approach

- a. Courts should only expound the existing law and should not make new laws (Literal/ Legal interpretation)
 - i. Example - AK Gopalan case

2. Contemporary Approaches

- a. Whenever a judge interprets law, it makes law. Constitutions should be seen as "living document", courts should interpret laws in accordance to changing needs of the society (Liberal approach)
 - i. Maneka Gandhi Case (Purposive and creative interpretation)

How a judge approaches the task of constitutional interpretation may vary from time to time. At times there may be one undercurrent and at times the other.

Concluding line

- In a number of cases the supreme court has expounded that judicial review is a basic structure (Keshavanand Bharati case m Minerva Mills case). There have been occasions when the government of India has tried to curtail the power of judicial review (24th and 42nd amendment acts). However, in spite of all these hurdles, the institution of judicial review has been institutionalised and has vibrancy of its own.

Basic Structure Doctrine**Introduction part**

- It is an innovation of Indian SC; it is a principle of judicial review. It gives the judiciary power to review even constitutional amendments. SC of India becomes the strongest SC in the world because only it has power to review the amendment of the constitution.
- Even US SC does not have the power to review amendments to the constitution. JR is based on Constitutional provisions. For ordinary law, the constitution itself is the basis to check. But for constitutional amendment we need to see soul of Constitutional which is nothing but by the means of DOCTRINE OF BASIC STRUCTURE.

Philosophy behind the doctrine of basic structure

- Amendment should not be the rewriting of the constitution. Even after amendment we should be able to recognise the original constitution. Parliament can't be considered at par with the constituent assembly who reflects the **general will**, whereas parliament reflects the **political sovereignty**. Hence even with consensus parliament can't amend the basic structure.

Background of the Doctrine of Basic structure

Evolution of the doctrine to be understood in context of the initial judicial disputes in India between fundamental rights and directive principles.

Part 3 (FRs) and Part 4 (DPSP) are based on contradictory philosophies.

- Part 3 is based on the ideology of liberalism which gives primacy to the rights of individuals.
- Part 4 based on philosophy of socialism, which gives primacy to the interest of society, even at the cost of individuals.

Evolution of the Doctrine

1. **Champakam Dorairajan vs State of Madras 1950** First case involving the dispute between DPSP and FRs.
 - a. **Judgement**

- i. Judiciary attempted the creative implementation of the term law used in Article 13(2) of the constitution).
- ii. According to the judiciary the term 'Law' will not include amendment, so if govt. wants to implement the Directive principles which abridges the FRs the govt. can do so only by bringing amendment and not by ordering law.

b. Response of the govt.

- i. **Govt. brought the 1st amendment act** in the year 1951 and introduced the clause (4) in Article 15, added article 31 A and Article 31 B. This amendment added the **ninth schedule** to the constitution making some provisions immune to the violation of fundamental rights.
- ii. The constitutional validity of the first amendment act come under question.

2. Shankari Prasad vs Union of India case-1951

- a. It was the first case questioning the amendment of the parliament. Judiciary had upheld the validity of 1st amendment act, did not provide any limitations on the amending power of parliament

3. Golaknath Case 1967

a. Judgement -

- i. SC held that the term law used in the Article 13(2) includes amendment. Hence even by amendment FRs can't be abridged.
- ii. The first case where the judiciary has applied the **doctrine of prospective overruling**. Judiciary was criticised for doing activism in favour of the elite section or the propertied class and putting restrictions on govt's action on social reforms.

b. Govt. Response- Govt.

i. 24th CAA 1971-

1. **Added clause 4 in article -13** : Nothing in the article 13 shall apply to any amendment made under article 368. Changed the title of Article 368 from procedure of amendment to power & procedure amendment. It also made compulsory for the President to give assent to Constitutional amendment bill.

ii. 25th Constitutional amendment act 1971

1. It tries to establish the balance b/w FRs and DPSPs. If any law is made to implement the directives given in article 39 (b) & (c), it shall not be challenged on the ground that it appraises or takes away any of the FRs.

4. Keshavanand Bharati Case; 1973

a. Judgement

- i. Constitutional validity of 24th and 25th Constitutional Amendment acts was questioned. Court upheld the validity of both but also declares the doctrine of basic structure through which the Parliament can amend any part without destroying the basic structure of the constitution

b. Govt. Response

i. 42nd amendment act: 1976

1. added clause 4 and 5 in the article 368.
2. **368 (4)**: No amendment shall be called into question in any court on any ground.
3. **368 (B)**: For removal of doubts it is declared that there are no limitations whatsoever on the constituent's power of parliament.

5. Minerva Mills case

a. Judgement

- i. Judiciary has declared clause 4, 5 or article 368, as null and void.
- ii. It restored the position as it was under the 25th amendment act **reiterating the doctrine of harmonious construction.**
- iii. The basic features if damaged or destroyed would rob the constitution of its identity so that it would cease to be the existing constitution but would become a different constitution.

6. I.R. Coelho Vs State of Tamil Nadu, 2007

- a. Since, the power to amend the constitution is not unlimited. If changes destroy the identity of the constitution, such amendments would be void. To qualify to be a basic structure it must be a "terrestrial concept " situated within the four corners of the constitution and not a twinkling star up above the constitution.

Important Basic structure of the constitution

1. Supremacy of the Constitution
2. Separation of powers between the legislature, the executive and the judiciary
3. Republic and democratic form of government
4. Secular character of the constitution
5. Federal character of the constitution
6. Sovereignty and unity of India
7. Freedom and dignity of the individual
8. Mandate to build a welfare state
9. Parliamentary System

Scholar's view of Basic structure

- **Zia Modi** in her book "**The ten judgements that changed India**" has given the following arguments in favour of the doctrine of basic structure.
 - If we look from an academic point of view, what the judiciary did was not correct, however, if we look from a practical point of view, it was the need of the hour. **It has proved blessings in disguise**
 - **According to her, the doctrine of basic structure restrained authoritarianism of the government.** Had judiciary not invented the doctrine, India would have gone in the same path as other 3rd world countries, it could save democracy in India
 - **According to her, Uncertain democracy was preferable over certain tyranny.** This we have to understand the relevance of the doctrine of basic structure in protecting the rule of law in a prismatic society like India
- **Justice PN Bhagwati**
 - Gone are the days when it was considered indecent for the judges to make public policy and laws. There is nothing to feel shy and guilty. If not doing - trying to escape from their responsibilities
 - If they don't take active participation it means that judges want to Live in the comfort zone unaffected by public criticism. And not playing their constitutional duty.

Criticism of the Basic Structure Doctrine

- It was criticised for being an extreme example of judicial creativity. Instead of limiting itself to the written provisions, the judiciary is trying to establish 'the metaphysical elements' of the constitution.

- The doctrine came into existence by the vote of just one judge. Six judges on the bench were against and seven were in favour. The Judiciary has not given the exhaustive list of what constitutes basic structure. It means the judiciary enjoys discretionary powers.
- However, it is also suggested that there is no need to give an exhaustive list, better to keep the provision as safety valve.
- Courts should only expound the existing law and should not make new laws (Literal/ Legal interpretation for Example - AK Gopalan case.

Concluding line

- The basic structure needs to be construed in its object, purpose and consequences of its denial of the integrity of the constitution as a fundamental instrument of governance of the country. Thus basic structure theory is based on the premises that amendment of the constitution can be equivalent to the destruction of the constitution. Even after amendment, one should be able to trace the original constitution

Constitutional amendment

Definition

Amending the Constitution of India is the process of making changes to the nation's fundamental law or supreme law. The procedure of amendment in the constitution is laid down in Part XX (Article 368) of the Constitution of India. This procedure ensures the sanctity of the Constitution of India and keeps a check on arbitrary power of the Parliament of India.

Why Constitutional Amendment?

- Constitutions are treated as sacred documents, laying down the fundamental laws of governance; they are written for generations and should not be changed easily. At the same time, social conditions may require to make necessary amendments in the constitution so that it does not become a closed and static rule book.
- **According to Pt Nehru**, Amendment acts as a safety valve to meet the aspirations of the new generation, otherwise the only option is revolution.

Nature of Indian constitution w.r.t Amendment procedure

US constitution is said to be rigid one in contrast to British constitution which is completely flexible. Indian constitution is said to be perfect blend of rigidity and flexibility

Ambedkar held that ordinarily, federal constitutions are rigid but the Indian constitution is a combination of flexibility and rigidity.

Pandit Nehru "While we want this constitution to be solid and permanent, there should be certain flexibility. If you make everything rigid, you stop the growth of the nation. The growth of living, organic vital people." - Pt. Nehru

Uniqueness of Indian constitution

It is not uncommon for nations to rewrite their constitutions in response to changed circumstances or change of ideas within the society or even due to political upheavals.

- The Soviet Union had four constitutions in its life of 74 years.

- Recently there was discussion on drafting 3rd constitution for Sri Lanka
- Developments in Nepal with regard to the constitution, even the present constitution of Nepal doesn't enjoy legitimacy in the eyes of all Nepalese people.
- It is astonishing that the same constitution continues to function in India even when it is about to complete its 72 years in 2022.

It is also true that the Constitution makers were very farsighted and provided for many solutions for future situations. Along with amendments, there has been enough flexibility of interpretations. Both political practice and judicial rulings have shown maturity and flexibility in implementing the Constitution. These factors have made our Constitution a living document rather than a closed and static rulebook.

Amendment procedure

Procedure under Article 368

Under Article 368, there are two types of procedures:

1. Amendment by special majority
 - a. Here special majority means (that is, more than 50 percent) of the total membership of each House and a majority of two-thirds of the members of each House present and voting.
 - b. There is no provision of joint sitting.
 - c. The president shall not deny assent to the bill.
2. Amendment by special majority as well as consent of not less than half of the states. In the federal setup, states should not be at the mercy of the Centre.
 - There are certain provisions specified in Article 368(2) which require not just special majority but even ratification by at least half of the states.
 - These provisions are somewhere linked to the interests of the states i.e. **Federal provisions** For example - 7th schedule, election of President Etc.

Concluding line

Critical features of the constitution can be amended only by wide consensus and in some context with the participation of the states, thus respecting the rights of future generation to meet their aspirations. The Constitution can be modified but is not open for easy tampering.

Some key amendments of Indian constitution

1st amendment act and its significance

- **According to Andre Beteille** we can say that India is a unique case where the constitution has to be amended within the very first year of the existence of the Republic.
- Historical background in which the 1st amendment act was introduced was the **Champakam Dorairajan case**, the first case involving the **dispute between the fundamental rights and DPSC**.
- **The 1st amendment act introduced exceptions like Article 31-A and 31-B. Article 31-introduced the ninth schedule.** The ninth schedule protects the acts that are a part of it from judicial review.
- **Apart from this** the amendment included the article 15(4) which enabled the state to make special provision in favour of the socially and educationally backward classes of India.
- Besides this the 1st amendment also introduced exceptions in article 19(1) with respect to freedom of speech and expression.

Significance of the amendment

It has strengthened the socialistic nature of the Indian state. It has established that the DPSP though not legally enforceable cannot be kept below the fundamental rights because it promotes the socialist nature of the state.

- The other significance is that it has also **ignited the debate over the nature and the scope of the amending power of the parliament.**
- **Judicial passivism and the dominance of Indian legislature** - The very 1st amendment was challenged in Shankari Prasad case where SC upheld the amending power of the parliament and this shows that this was the time of the Judicial passivity and the dominance of legislature in the history of Indian politics.
- **Other significance is about the litigation which later on culminated into the doctrine of Basic structure** which has its origin in the 1st amendment act which led to the questioning of the scope of amending power of the parliament and it has resulted into long term implication on Indian constitutionalism and Indian politics.

42nd Amendment Act: called as mini constitution

The constitution of India offers basic guidelines for the efficient functioning of the nation. It advocates the principle of constitutional sovereignty over parliamentary sovereignty. Amendment procedure is made in such a way that it should not become plaything in the hands of the ruling party. However, there have been occasions where ruling parties, having substantial majority in both the houses, have been accused of subverting the constitution.

Background of the 42nd amendment

Constitutional amendments in the 1970s-1980s generated huge political controversies. The 38th, 39th and the 42nd amendments have been the most controversial. These amendments were made in the background of the internal emergency when the entire opposition was behind bars. Thus, the time and political circumstances further erode the legitimacy.

38th amendment act, 1975 barred judicial review of proclamation of emergency. 39th amendment act 1975, placed election of President, Vice-President, Prime Minister and Speaker, beyond the scope of judicial review. It was moved to pre-empt hearing by the Supreme Court related to the election of Indira Gandhi, on the charges of electoral malpractices. (**Indira Gandhi Vs. Raj Narain case**)

The 42nd amendment was the most controversial and wide ranging.

1. It was also an attempt to override the ruling of the Supreme court in Keshavanand Bharati case.
2. It increased the duration of Lok Sabha from 5 to 6 years.
3. It made fundamental rights subservient to directive principles of state policy.
4. It made changes in the Preamble 7th schedule and 53 articles.
5. It curtailed the powers of the Supreme court and high courts.
6. It also weakened the legislative powers of the state by shifting entries from state list to concurrent list.

Later on, many of the changes were amended in **44th amendment** and judicial pronouncements (Minerva Mills case) to restore the constitutional core.

Nature of amendments in India

1. **Administrative/ technical in nature** - Some of the amendments are technical/administrative in nature. It includes only clarification, explanation and minor modifications.
 - For example - Increasing the duration for reservations for SC/STs every ten years is just technical without changing the original provision.
2. **Overruling judiciary** - At times, parliament may have disagreed with judicial interpretations and sought to amend to overcome the ruling of the judiciary.

- For example - Article 16(4A), added by 77th amendment to nullify the judgement of the Supreme Court in Indira Sawhney case with respect to reservations in promotions
3. **Amendment necessitated by the immediate circumstances**
 - For example - The 52nd and 91st amendment to deal with problems of defection, the 73rd amendment to introduce good governance
 4. **Political reasons** - At times, certain amendments have been seen as a political move to gain advantage in elections. For example - The 103rd amendment providing reservations to the EWS sections

Criticism of amendment procedure in India

Amendment procedure of the India has been criticised on the Following grounds

1. There is **no provision for a special body to change the Constitution, such as a Constitutional Convention** (as in the United States) or a Constitutional Assembly.
2. It is **Parliament, not the states, that has the authority to propose a constitutional modification. A large portion of the Constitution can be modified by Parliament alone**, with either a special majority or a simple majority. The Constitution **makes no provision for the state legislatures to ratify or reject an amendment that has been offered to them.**
3. If there is a deadlock over the passage of a constitutional amendment bill, **there is no provision for a joint sitting** of both Houses of Parliament.
4. The amendment procedure is **similar to the legislative process**. The constitutional amendment legislation must be carried by Parliament in the same way as other laws, with the exception of the special majority requirement.

Concluding line

- Despite these flaws, the procedure has proven to be simple and straightforward, and it has been successful in meeting changing demands and conditions. The procedure isn't flexible enough for the ruling parties to change it at their leisure. It's also not so stiff that it can't adapt to changing requirements. It 'strikes a good balance between flexibility and rigidity.
- **Pandit Jawaharlal Nehru** said in the Constituent Assembly, 'While we want this Constitution to be as solid and permanent as we can make it, there is no permanence in a Constitution. There should be a certain flexibility. If you make any Constitution rigid and permanent, you stop the nation's growth, the growth of a living, vital, organic people

Constitutional Morality

What is constitutional morality

Constitutional morality means **adherence to the core principles of the constitutional democracy**. The scope of constitutional morality is not limited only to following the constitutional provisions literally but it is so broad that it includes commitment to inclusive and democratic political process in which both individual and collective interests are satisfied.

Ambedkar and constitutional Morality

It was Dr. Ambedkar who perhaps first used the term Constitutional Morality in the Indian context. Influenced by the political ideas of the Greek historian **George Grote**, Ambedkar advocated the necessity of constitutional morality which meant "paramount reverence for the forms of Constitution

For Ambedkar, the **central elements** of Constitutional Morality were **freedom and self-restraint**.

In the words of Ambedkar ‘the maintenance of democracy requires that we must ‘hold fast to constitutional methods of achieving our social and economic objectives.

It must mean that we abandon the bloody methods of revolution. It means we must abandon the method of civil disobedience, non-cooperation and Satyagraha.’ While the government is subject to the full force of criticism, this criticism must, in some sense, be ‘pacific’ criticism.

The second element of constitutional morality is the recognition of plurality. For Ambedkar, the only way to resolve the differences is to secure some degree of unanimity on a constitutional process, a form of adjudication that can mediate differences.

The third element of constitutional morality is its suspicion of any claims to singularly and to uniquely represent the will of the people.

Ambedkar was very reluctant to see any branch of government, whether it be the legislature or the courts, or even the Constituent Assembly itself, as being able to claim authoritatively that it embodies popular sovereignty and can speak in its name. Any appeal to popular sovereignty has to be tempered by a sense that the future may have at least as valid claims as the present.

For Ambedkar, the function of parliament is not so much to represent popular sovereignty as it is to debate and constantly question the government and to prevent it from claiming monopoly over popular will. **While elections are ‘periodic assessment’, the parliament provides a platform for ‘daily assessment.’**

To sum up, constitutional morality for Ambedkar represents self-restraint, respect for plurality, deference to processes, scepticism about authoritative claims to popular sovereignty, and the concern for an open culture of criticism that remains at the core of constitutional forms.

Recent judgments on constitutional morality

- In the historic Government of **NCT of Delhi vs Union of India case,-2019** the Supreme Court pronounced that the constitutional morality is “not just the forms and procedures of the Constitution, but provides an enabling framework that allows a society the possibilities of self-renewal”
- In the **Navtej Singh Johar case- 2018** which pertained to Section 377 of IPC, 1860, the Supreme Court said, “Constitutional morality cannot be martyred at the altar of social morality.
- In the **Sabarimala judgment-2018** the court observed, “existing structures of social discrimination must be evaluated through the prism of constitutional morality. The effect and endeavour are to produce a society marked by compassion for every individual.

Criticism of constitutional morality

1. **Manu Singhvi in his book "The Trenches"** held that **Because of its subjectivity**, the idea of constitutional morality has been deemed harmful
2. **K.K. Venugopal**, the Attorney General of India, - He considered it as another divisive dogma, similar to "Basic Structure."
3. **Tushar Mehta**, the Solicitor General of India, saw it as a dangerous theory that would allow the judiciary to become the Third Chamber.

Concluding line

- Constitutional Morality has been used to suggest substantive values underlying the constitution. The spirit of the constitution beyond letters. To suggest that even the silence of the constitution cannot be interpreted arbitrarily. And to evaluate the functioning of government bodies where the constitution is silent or provides discretionary power.

OnlyIAS Nothing Else

Principal Organs of the Union and state Government

UPSC syllabus

- a. Principal Organs of the Union Government: Envisaged role and actual working of the Executive, Legislature and Supreme Court.
- b. Principal Organs of the State Government: Envisaged role and actual working of the Executive, Legislature and High Court

Principal Organs of the Union and state Government

Union government consists of three units

- **Legislative** - Legislative branch consists of two houses of parliament—the lower house, or Lok Sabha (House of the People), and the upper house, or Rajya Sabha (Council of States).
- **Executive** - The executive branch consists of the president, vice president, and a Council of Ministers, led by the prime minister.
- **Judiciary** - At the apex of the judicial branch is the Supreme Court, whose decisions are binding on the higher and lower courts of the state governments.

Union Parliament

Introduction that can be used for parliament.

- Center of gravity in parliamentary democracy is parliament. It means parliament is a supreme institution to maintain the accountability of the executive. Executive can remain in power so long it retains the confidence of the house. Parliamentarians are the representatives of the people and through parliamentarians the ultimate responsibility towards the people is achieved.

About parliament

- **Founding fathers of the constitution considered parliament as a means to ensure social, political and economic transformation of the nation.**
- The Parliament is the legislative organ of the Union government. India is a form of Parliamentary Government. It is a form of government in which the executive is responsible and answerable to the legislative. It occupies a pre-eminent and central position in the Indian democratic political system due to adoption of the parliamentary form of government, also known as 'Westminster' model of government.

Parliamentary form of government

- It is also known as cabinet government, responsible government or Westminster model of government and is prevalent in Britain, Japan, Canada, India among others.
- In this system Executive is accountable to the Parliament and stays in office so long as it enjoys the latter's confidence.

- As per **Iver Jennings** Prime Minister as 'primus inter pares' (first among equals)
- It is also called as 'cabinet system' because the cabinet is the nucleus of power in a parliamentary system.

Scholars' who supported parliamentary form of Govt.

- **Modernist Like Nehru** were in favour of the parliamentary form of Govt. and he contributed tremendously for the establishment and strengthening of parliamentary democracy in India during his rule after the independence by providing the strong voice to the opposition as well as effective co-ordination and deliberation in parliament. He highlighted the following merits of the parliamentary system of the government.
 - He believed that parliamentary form of government involves the method of argument, discussion and deliberation which is very important for the diverse polity like India.
 - It involves the peaceful method to deal with the problems and even change the decisions over the time through discussions.
- **Ambedkar** was Critic to the Gandhian model as he considered **the villages as the "Den of ignorance"** and villages being the primary unit of rule will entrench the discrimination and subordination. He supported the parliamentary democracy because of his choice for the responsibility over the stability. He believed that the parliamentary system provides the inter-dependence, collaboration and ensure diverse representation in government, more accountability and better co-ordination.

Critic of parliamentary form of govt

- **Mahatma Gandhi** in his book "Hind swaraj" has shown the **disdain for the parliamentary form of government**. He believed that parliamentary form of government is not suitable for country like India. He believed in the creation of self-sufficient and non-hierarchical socialist villages with each of them functioning as a unit of direct democracy. **Thus he was in favour of the direct democracy instead of representative parliamentary democracy.**

Why India adopted the parliamentary system

- **KM Munshi** a member of constituent assembly held that the major reason for adoption was the **Familiarity with the System**-- had been in operation in India during the British rule.
- **Preference for responsibility over authority –**
 - **B R Ambedkar**--Democratic system must satisfy two conditions: stability and responsibility. neither of system can give both so we preferred more responsibility to more stability.
 - This government was considered a more responsible government as in this form of government, the executive is answerable to legislative and the legislative is answerable to the citizens.
- **Parliamentary system prevents Authoritarianism-**
 - Though parliamentary system is less stable, yet parliamentary system was found preferable to presidential system because except USA there is no other country in the world where presidential system retained its democratic character.
- **Nature of Indian Society—heterogeneous, most complex plural societies**
system offers greater scope for giving representation to various section, interests and regions in the government.
- **Checks and balances** - There is always a Parliamentary Opposition to maintain **a check on the actions of the ruling government and opposition is also seen as alternative government.**

Why western scholar were apprehensive?

1. Western in origin
2. Lack of experience
3. Scale of diversity
4. Social cleavage which automatically resulted into adversarial democracy Rather than consensual democracy
5. Competition for power

Morris Jones book “**parliament in India** “**highlight** the following weaknesses of the parliamentary democracy. He held that **it was unmistakably a success story.**

1. Lack of opposition in the country
2. Close relationship between govt. and party

Role of parliament in India

- **It represents the will of people.** Parliament is the most important branch of govt. representing the will of the people.
- **Parliament is the supreme law making body,** supreme policy making body, highest platform of establishing executive’s accountability and
- **Highest platform of deliberative democracy.**

Stages of the functioning of parliament

Shankar & Rodrigues in their book “**The Indian parliament : A democracy at work** ”has identified -3 stages in the evolution of parliament.

1. Until the 1960's**a. Parliament enjoyed legitimacy because**

- i. There was a stable majority and dominant position of Congress and the leadership of Nehru
- ii. **Western educated elite class**-shared the common vision of nation-building and viewed parliament as a major institution
- iii. **Shared political culture,** not only among Congress members but also in opposition.
- iv. Parliament could assert its hegemonic position, work closely with executive, could adopt key policy measures like Zamindari Abolition and Reservations.

2. From the 1960s till 1980s

- a. Disillusionment started with the death of Nehru.
- b. External wars like India-china war ,1962 and India –Pakistan war 1971.
- c. Green Revolution gave rise to a new social group.
- d. Indira Gandhi lacked the legitimacy which Nehru enjoyed.
- e. Loss of majority by Congress at centre& states in 1967.
- f. Split of Congress in 1969.
- g. Period of emergency
- h. Rise of social movement in 70s, anti-price rise agitation, Chipko movement, Jai Prakash Narayan called for total revolution
- i. Break down of law and order situation in north east Punjab and J&K.
- j. Rise of regional politics

3. From the 1990s

- a. Biggest amount of decline of parliament for following reasons:
 - i. Multi-party system- competition among political parties more acute.
 - ii. Greater role of caste, religion and other local factors.
 - iii. Unstable coalitions.
 - iv. Problem of defection increased.
 - v. Globalisation.
 - vi. Civil society assertion
 - vii. Judicial activism and judicial intervening
 - viii. Destructive role by the opposition
 - ix. Negative portrayal by media tarnished the image of parliament
 - x. Criminalisation of Indian politics.

Organs of the parliament

RAJYA SABHA

Debate in Constituent Assembly on existence of second house

- **M. Ananthasayanam Ayyangar** - The second chamber will check on the hasty legislations and enable the representation of the people of high intellect through nomination.
- **Dr Sarvepalli Radhakrishnan**:-Deliberation is the key to democracy and second house will help in better deliberation on the issues.

Opponents

- **Professor Sibban Lal Saxena**: -it will make the progress delayed by unnecessary hindering the important legislations.

Importance of Rajya Sabha

- The core rationale for having two chambers in a national legislature broadly flows from the need for **checks and balances** in a republican government; to serve as an auxiliary precaution against abuse by majority factions.
- **Federalism**- At the same time, nations with large territories and heterogeneous constituents prefer bicameralism for **ensuring the adequate representation of diverse interests** at the federal level; the importance of RS has renewed on account of rise of regional parties
- **A forum for calm and informed deliberation**. Enables senior politician and statesman to take part in the polity and also facilitate participation of intellectuals through nomination.
- **Permanent character as a measure of stability**. For e.g., when LS is dissolved, RS performs several important functions like approving emergency provisions till new Lok Sabha is constituted
- Several exclusive powers are vested in Rajya Sabha- creation of All India Service (**Article - 312**)empowering Parliament to legislate on state subject.
- Less political compulsion- as the seat is not dependent upon direct elections.
- Representation of interest and **aspirations of the different states through Rajya Sabha**.
- **Representation of different sections** – Rajya Sabha has provision of **nomination** for various section of people for remarkable works in the field of Science, Arts, sports etc.
- Rajya Sabha also acts as a means to institutionalise the **federal principle of power-sharing** between the Centre and states where the interest of the states gets represented.

Issues with the Rajya Sabha

- After the amendment to RPA in 2003 the **domicile requirement has been done away with**. This reduces the function of RS as representatives of states.

- **Control over few big states** is more than enough to scuttle the voice of numerous smaller states with significantly less representation.
- **Allotment of seats in Rajya Sabha** to states on the basis of population
- **30% of the time in question hour is wasted in disruptions.** It contradicts the objective of calm and informed debate in house of elders
- Rajya Sabha is being used as a proxy to make non-elected persons part of government.

Rajya Sabha vs Lok Sabha

- **Composition of the house**
 - Members of the **Members of the Lok Sabha are directly elected by the people from the territorial constituencies in the states.**
 - **Members are elected by the elected members of state legislative assemblies**
- **Difference in election method**
 - Members of the Lok Sabha are directly elected by universal adult franchise.
 - Members are elected by the principle of proportional representation by means of single transferable vote.
- **Bills and legislations**
 - Money bill can be introduced only in Lok Sabha
 - Rajya Sabha have no equal power w.r.t Money bill.
- **Joint sitting (Article 108)**
 - Joint sitting is held only in Lok Sabha with speaker as the chairman.
 - There is no joint sitting in Rajya Sabha

Current status of the Rajya Sabha

- **Rajya Sabha has become a haven for losers in elections,** crony capitalists, compromised journalists and party fundraisers.
- It was envisaged as House of Elders. But the average age of both the houses is almost similar.
- Since there are indirect elections, there is **rampant horse trading.** This puts questions on the credibility of the House.
- It has unequal representation of states. Hence the smaller states' interests are overlooked. Also members need not be from the state that does not show true representation of state.

Reforms suggested

- **Punchhi commission**
 - To bring small states in our political mainstream it is important for them to have equal representation in Rajya Sabha (as used in USA)
- There should be deadlines set for responding to bills initiated in the Lok Sabha.
- Rajya Sabha should now develop an informal convention (like Salisbury Doctrine in UK) that a policy which has been thoroughly discussed, has broad and bipartisan support, and has passed with a majority in the lower House, should not be held up.
- Since in a FPTP democracy, there is not adequate representation of certain minority communities in the popular house. RS should be utilized to provide representation to underrepresented.

Parliamentary Sessions

- **Art 85** only requires that **there should not be a gap of more than six months between two parliamentary sessions.** By Convention, there are three sessions of Parliament Budget Session, Monsoon Session and Winter Session.
- The constitution does not specifically say that when or for how many days should the Parliament meet.

- The President summons session of Parliament on the advice of the council of ministers.
- Parliament sittings have reduced from **120 days/year in 1952 to 65-70 days/year** in recent Lok Sabha due to various reasons including **disruptions leading to adjournment**. The situation of **state assemblies is worse**.

Consequences

- **Compromised legislative business**- hasty passage of bills and budgets.
- **Lack of avenues to express dissent**- it's a vicious cycle as MPs don't get time to express their dissent and in turn they disrupt the house.
- **Undermines legitimacy**- of the Parliamentary democratic process itself.

Way Forward

Dilute the power of the government to be the sole decider of session dates.

- NCRWC has recommended the minimum number of sitting of Lok Sabha and Rajya Sabha be fixed at **120 and 100 respectively**
- Dilute some of the provisions of the Anti-Defection law which allows party whip on trivial matters.

Speaker

Speaker is elected by the house when the newly constituted Lok Sabha meets. She is the **leader of the house and defender of the privileges of the House and its members**.

Role, Powers and Functions

- **Head of the Lok Sabha, and its representative.**
- guardian of powers and privileges of the members, the House as a whole and its committees.
- principal spokesman of the House, and his decision in all Parliamentary matters is final.

Powers and duties

- Maintains order and decorum in the House.
- **Final interpreter of the provisions of (a) the Constitution of India in the house.**
- He adjourns the House or **suspends the meeting in absence of a quorum**.
- Presides over **joint sitting**.
- Decides the **disqualification** arising out of defection.
- Appoints the chairman of all the parliamentary committees of the Lok Sabha.

Evaluation of the Function of the speaker

- **Money Bill** in 2017, the role of speaker was under scanner for labelling the ordinary bills as money bills (e.g. Aadhar Act) .SC in the Aadhar Judgment has clarified that Speaker has the final right to label a bill as money bill but **Speaker's decision could be challenged in court only under "certain circumstances"**
- **Anti-Defection Law**:- The absoluteness of the Speaker's decisions is incentive for potential abuse. The determination of whether a representative has become subject to disqualification, post their defection, is made by the Speaker
- **Sessions of the house** As recently as June 2020, the Speaker of Lok Sabha has been accused of not permitting the session of Lok Sabha to be conducted virtually. Parliamentary standing committees were also not allowed to hold their meetings online amid COVID-19.

- In 16th Lok Sabha, Speaker invoked the Rules 193 to suspend members of the Main Opposition party for five days, however when the ruling party prevented any transaction of business in the second half of the session, Speaker merely adjourned the house on a daily basis.
- **Increased disruptions:** Frequent disruptions reduced the time required for important discussions and compel speakers to allocate less time for discussion. This often questions the impartiality of the speaker as he allegedly provides more time to the ruling party

Recent Issues related to speaker

- **Claims of Prejudice-** as Speaker is conventionally chosen from majority party and deputy speaker from opposition. The healthy practice of Speaker resigning party once elected has not developed in India.
- **Many speakers hold ministerial positions just before or after their term.** This questions their neutrality by other members.
- Rise in number of political parties has made **harder for Speaker to generate consensus.**
- **Disruptions and short sitting** of house has made job of speaker more difficult.
- Partial use of quasi-judicial powers vested in Speaker- e.g. Anti-Defection. **16 MLA in Arunachal Pradesh were disqualified in 2016 without any violation of the law.**
- **Money bill issues.** – The role of Speaker as the authority on the decision of a bill being the money bill has been questioned in the supreme court.
 - For example, **The Aadhar Act** –in which SC has given the judgment that although the Speaker is the sole decider but his **decision can be questioned.**

Supreme Court: -

- **Keisham Meghachandra Singh VS Speaker (2020)**
 - SC looked into the Speaker's inaction on the matter of disqualification in this case. SC said the disqualification petition should be cleared by the Speaker within 4 months.
- **Nabam Rebia and Bamang Felix vs Deputy Speaker case**
 - SC had said that the Speaker ought not to have disqualified the defectors when the motion for his own removal was pending (the Speaker's order was anyway stayed by the HC).

Suggestion: -

- The Committee, headed by **V.S. Page** suggested following
 - That if the Speaker had conducted himself or herself in an impartial and efficient manner during the tenure of his or her office, he or she should be allowed to continue in the next Parliament.
 - Anyone seeking the office of the Speaker might be asked to run for election on an independent ticket.
 - Any Speaker should be barred from future political office, except for the post of President while being given a pension for life.
 - Like in the UK, the Speaker should resign from the party once elected to the post of speaker.

Way forward

- **UK's Convention of Speaker being a non-party man i.e. resigns from party.**
 - SC observed that a **Speaker should refrain from deciding the disqualification of MLAs for defection under the Tenth Schedule of the Constitution while a notice of resolution for his own removal from the office of Speaker is pending.**
 - **In case of money bill, committee based certification should be adopted instead of sole decision of the speaker.**

Conclusion

Our First PM **Pt. Nehru** has rightly articulated the role and position of the speaker- He held that Speaker represent the dignity and freedom of the house and because he represents the nation in a particular way He becomes the symbol of the nation's freedom and liberty. Thus the person who holds the position of speaker should be a person of outstanding ability and impartiality.

Privileges of Legislators

They are special rights, immunities and exemptions enjoyed by the two houses of the Parliament/ state legislatures, their committees and their members. The Indian constitution provides for the power and privileges of the parliament under the **Article 105** and for state legislature under the **Article 194**.

Two broad categories of privileges

1. **Collective privileges are enjoyed by each house collectively.**
 - E.g. right to publish reports etc.
 - Exclude strangers from house proceedings.
 - Punish members/ outsiders for breach of privileges etc.
2. **Individual privileges are enjoyed by the members individually.**
 - Freedom of speech in the house.
 - Exemption from jury service when house is in session.
 - Exemption from arrest during the session and 40 days before and after the session.

Source of the privileges:

- Originally these are derived from the British House of Commons
- There is no law to codify all the privileges.
- They are based on five sources namely: -
 - Constitutional provisions.(Article 105 and Article 194)
 - various laws of parliament.
 - Rules of both the houses.
 - Parliamentary conventions.
 - Judicial interpretations.

Breach of privilege:

- There are **no clearly laid out rules on what constitutes breach of privilege and what punishment it entails.**

Constitutional position:

- Special privileges are enshrined under Art 105 (in case of Parliament) and Art 194 (in case of state legislature) of the Constitution.

Importance

- They **protect the freedom of speech of parliamentarians** and legislators and **insulates them against litigation over matters** that occur in these houses.
- Without these privileges the house can **neither** maintain their authority, dignity and honour **nor** can protect their members from any obstruction in discharge of their duties.

Criticism

- It is **sometimes used to counter media criticism of legislators and as a substitute for legal proceedings.**
- **Breach of privilege laws allow politicians to become judges in their own cause, raising concerns of conflict of interest and violating basic fair trial guarantees.**

Codification of privileges

Need for the codification of the privileges

1. With codification the legislative privileges will be in consistent with fundamental rights, this will ensure that the legislators do not act in an arbitrary manner and remains within the confines of the limits imposed by the rule of law as embodies in our constitution.
2. The position of the citizen as regard to the state legislatures and parliament will be clearly defined as the privileges being taken from the British laws its comprehension in India is difficult.
3. Press commission of India has suggested the following recommendation
 - a. It is desirable that both parliament and state legislature should define by legislation the precise power, privileges and immunities which they possess in regard to contempt and procedure for enforcing them.
 - b. Such a law would have to be in consonance and with our constitution and could be challenges if it appears to be in conflict with any fundamental rights.

Content of a code of privileges

Broadly the code should include the freedom of speech in legislature, judicial immunity for speech or vote or legislative publication as already been mentioned in the constitution.

Certain other privileges which have grown out of precedent should also be included like

1. Members of officers of the house cannot be compelled to give evidence produce document in courts of law relating to proceedings of the house without permission of the house
2. The privilege relating to regulating its own procedure and conduct of business.
3. Certain privileges in the rules of procedure and conduct of business of the house should also be given statutory recognition.

Conclusion

Codification of the privileges is the requirement of the day. The past privileges of the house of commons cannot be allowed to control the Indian past and future.

Anti-Defection law

The anti-defection law was passed by parliament in **1985** to provide stability to governments and promoting party discipline. The **52nd amendment** added the **10th Schedule** which laid down the process by which legislators may be disqualified on grounds of defection.

- **Grounds of defection in 10th schedule included by 52nd amendment**
 - When the elected member voluntarily gives up his membership of a political party through which he is elected.
 - If he votes or abstains from voting in such House contrary to any direction issued by his political party or anyone authorised to do so, without obtaining prior permission.
 - Independent members would be disqualified if they joined a political party.
 - Nominated members who were not members of a party could choose to join a party within six months; after that period, they were treated as a party member or independent member.
- **Exceptions under the Law:**
 - Any person elected as speaker or chairman could resign from his party, and rejoin the party if he demitted that post.
 - A party could be merged into another if at least two-thirds of its party legislators voted for the merger.
 - The law initially permitted splitting of parties, but that has now been outlawed.
- **Changes made by the 91st amendment**
 - **Change in the rules for merger** – As per the **earlier** act defection by the **one third** of the elected members of a particular political parties was considered as merger. The **91st**

amendment 2003 changed and now at least **2/3rd of the members** of the party need to be in favour of a merger.

- **Change in the rule of split –**
 - **After the amendment split has not been recognised in a party and only merger will be recognised.**

Recommendations made by various committees:

Dinesh Goswami Committee on Electoral Reform	Limited use to confidence motion; President to decide disqualification on advice of EC. <ul style="list-style-type: none"> ● A member voluntarily gives up the membership of his political party ● A member abstains from voting, or votes contrary to the party whip in a motion of vote of confidence or motion of no-confidence. Political parties could issue whips only when the government was in danger
Law Commission 1999	Pre poll electoral fronts should be treated as one party; use only for confidence motion. Law Commission (170th Report) <ul style="list-style-type: none"> ● Provisions which exempt splits and mergers from disqualification to be deleted. ● Pre-poll electoral fronts should be treated as political parties under anti-defection ● Political parties should limit issuance of whips to instances only when the government is in danger.
Election Commission	President make decision on EC advice. <ul style="list-style-type: none"> ● Decisions under the Tenth Schedule should be made by the President/ Governor on the binding advice of the election commission
NCRWC, 2002	<ul style="list-style-type: none"> ● Defectors barred from holding public office for duration of remaining term; the vote cast by a defector to topple govt should be treated as invalid

Role of Opposition

Opposition is part of Parliament which has an important role in check and balances.

Instrument of Control by Opposition

- **No Confidence Motion** to keep a check on the government.
- **Other Motions** like Cut Motions, Adjournment Motions, Privilege Motion
- **Resolutions** on various issues of public importance which has not been taken for the discussion by the government.
- **Debates and discussion** through the instruments like - Hour, Question Hour, Discussion Sessions
- **Parliamentary Committees and Parliamentary Forums**- These committees have proved to be successful to stop the hasty decision and decisions after the needed deliberation and expert's advice.
- **Passage of Bills**- Opposition plays an important role in the passage of the bill through voting and putting its view on the particular bill.

Role of opposition

During congress system - Opposition at margins because of majority and consensus. Congress was considered as the umbrella party reducing the role of opposition.

- **Breakdown of Congress** - Role increased because of the emergence of the
- But after 1990 - **Decline of ideology and rise of "Catch all parties"**.
 - **No effective role** - no solidarity it remained fragmented.

How opposition is major factor for Decline of Parliament in India?

- **Former President Pranab Mukherjee** has highlighted the destructive tactics of the opposition
- **The opposition decreased and ineffective role in Debate in parliament.** They follow the policy like **Walk out.**
- Lack of Parliamentary ethics there are various evidence of chaos and destructive tactics in parliament.

Office of Profit

Constitutional Provisions

It is neither defined in the Constitution, nor in RPA 1951

Under the provisions of **Article 102 (1) and Article 191 (1)** of the Constitution, an MP or an MLA (or an MLC) is barred from holding any office of profit under the central or state government

Provisions of **Articles 102 and 191** also protect a legislator occupying a government position if the office in question has been made immune to disqualification by law

Observation by the Supreme Court

In 1964, the Supreme Court **Satrucharla Chandrasekhar Raju v. Vyricherla Pradeep Kumar Dev** and Another ruled that the test for determining whether a person holds an office of profit is test of appointment. Several factors are considered in this determination including factors such as:

1. whether the government is the appointing authority,
2. whether the government has the power to terminate the appointment
3. whether the government determines the remuneration
4. what is the source of remuneration?
5. the power that comes with the position

In **Pradyut Bordoloi Vs Swapan Roy (2001)**: - SC has added 2 more factor to test the office of pro

1. Whether the body in which the office is held has Government powers like releasing Money, Granting License.
2. Whether the Office enables a holder to influence by way of Patronage

Recent cases w.r.t Office of Profit

1. In Delhi, the 21 parliamentary secretaries added to the seven ministerial posts would constitute 40% of the 70-member legislature.
2. In 2019, Punjab cabinet has passed ordinance to exclude appointment of advisor to CM from ambit of OOP.
3. The Nagaland Chief Minister appointed 26 legislators as parliamentary secretaries in July 2017

Courts observations

- The **Calcutta High Court** has observed that the appointment of MLAs as parliamentary secretaries was an attempt by state governments to bypass the constitutional ceiling on the number of ministers.
- In 2009, the **Bombay High Court** also held that appointing parliamentary secretaries of the rank and status of a Cabinet Minister is a violation of Article 164 (1A) of the Constitution. The Article specifies that the number of ministers including the Chief Minister should not exceed 15% of the total number of members in the assembly

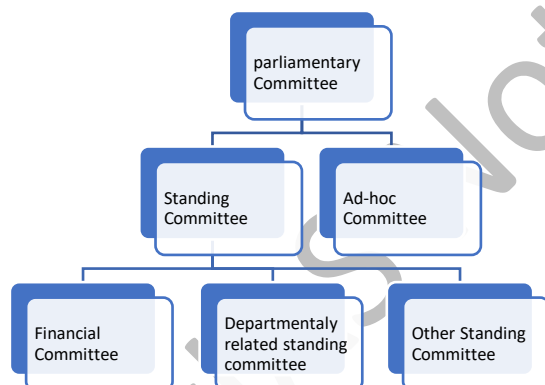
Suggestions and way forward

The **Bhargava committee** has made following recommendations regarding offices of profit: -

1. Offices in purely advisory bodies should not be treated as offices of profit, irrespective of any remuneration attached with the office.
2. If the office-holder is the Head or Member of such organisation where close coordination between the Council of Ministers and the organisation is essential for functioning of the Government, the office should not be treated as an office of profit.

Parliamentary Committees

Parliamentary committees are of two types: **Standing and Ad-hoc committees**. While the former perform specialized jobs, the latter are constituted to perform specific tasks and cease to exist on its completion.



Importance-

- **Informed Decision-making-** Parliamentary committees investigate issues and bills proposed so that the Parliament can be well informed before making a decision of national importance.

- **Increases Accountability-** It increases the ability of Parliament to scrutinize government policies and make it accountable

- **Legislative Support-** The committees can

make recommendations and amendments to the bill. These are not binding on the Parliament.

- **Committees operate even when Parliament is not in session.**
- **Expertise** development among Parliamentarians.
- **Engagement with Stakeholders** - Example -**Finance Standing Committee summoned RBI governor.**
- **Consensus building** - In the past, we have seen that scrutiny by committees has helped resolve significant issues in Bills. For instance, the Prevention of Corruption Amendment Bill which has been pending in the Rajya Sabha since 2013. The Bill has been examined by two parliamentary committees and has gone through a number of iterations. This has resulted in significant issues in the Bill getting addressed.
- Shifts the **focus from politicisation of issues to constructive criticism.**

Issues-

- Since the inception of the 16th Lok Sabha, only 29% bills have been scrutinised by parliamentary committees as compared to 60% and 70% of bills being examined in 14th and 15th Lok Sabha respectively.
- **Poor attendance** of Members- 50% since 2014.
- **Short tenures of members**- reconstituted every year.
- **Lack of discussion on committee reports.**
- **Recommendatory nature of the committee reports.**
- **Politicization of their proceedings**- taking strict party lines

Way Forward-

- **Extend tenure**
- **Enforce minimum attendance.**
- **Provide research support.**
- **Avoid overlapping functions.**
- **Evolve institutional mechanism to discuss report in Parliament.**
- **Adopt best practices from other countries**- for e.g. minister appearing before the committee to elaborate and defend policies.

Concluding line

- **NCRWC** has suggested to Replace the committee that has outlived its utility and new committee on economy, employment should come now. Amend the Rule of Business so that all major bills must be referred to the Departmentally Related Standing Committee.

Recent era of decline of parliament

Decline of parliament means the **decline in the institutional capacity** and the role of the parliament as a **representative body** to fulfil the interest and aspirations of the different sections of the society. It also means the **erosion of democratic ethos** that parliamentary democracy holds like decline in the number of debates, discussion and deliberation in the house to make the effective laws for the dynamic changes.

Testimony that Parliament is in Decline: -

- **Decline in the number of sittings in Indian Parliament :-** According to the analysis of PRS Legislative Research (PRS), against the average **127 days of sitting in the 1950s**, Lok Sabha met only **70 days in the last decade**. In fact, in **2017 lowest number of 57 days** as per data of PRS legislative research. Thus there is decline of almost 50 percent in the amount of time for which parliament seats for debates and deliberations.
- **Attendance of Members:-** Speakers have turned their eyes away from the necessity of having the quorum for the sitting to proceed. Even in the **fifteenth Lok Sabha**, there were **only seven out of 545 members having 100 % attendance**.
- **Tabling the Bill:-** The manner in which the bill (j & k reorganisation bill) has been placed is alleged to be in a direct violation of Rules of procedure and conduct of business Rules 69 which talks about Motion before introduction of bills.
- **Role of Parliamentary Committee:-** In the 16th Lok Sabha, fewer Bills (26 per cent) are being referred to Parliamentary Committees as compared to the 15th Lok Sabha (71 per cent) and the 14th Lok Sabha (60 percent). For example, RTI Amendment Act (2019), UAPA Amendment Act (2019) - which have huge implications on civil liberties, were passed without sending them to committees.

- **Increase in the number of interruptions and adjournments-** The time lost because of interruption and adjournments have increased from 5.28 percent in 11th Lok Sabha to 41.6 percent during the 16th Lok Sabha.
- **Marginalized role of Rajya Sabha** – The recent trends shows that there has been decline in the role of Rajya Sabha as a House to ensure accountability. For example, through **labelling the bill as money bill** where the role of Rajya Sabha get reduced. For example, the **Aadhar Act**.

There has been a dissatisfaction with the working of parliament among various political scholars' like

Subhash Kashyap in his book **“Reviewing the constitution”** has held that there is an overwhelming consensus on the decline of parliament. As per him it has ceased to play the role of the most representative body either quantitatively or qualitatively. the Character of parliament has changed as a result of change in composition of the parliament.

PB Mehta and Devesh Kapoor- Book-Public Institutions in India.

- Parliament is in the state of decline.
- Criminalisation of politics has made parliament a self-serving institution
- globalisation is increasingly making parliament irrelevant.

Shankar and Rodrigues (Book Indian Parliament) and Sudha Pai have identified the various cause of the decline of parliament.

- Parliament shows little creativity, shallow and superficial debates.
- **Lack of Responsible opposition** makes the ruling party work on their own whims and fancies.
- **Lack of training and capacity building of member of parliament** decreases the level of debate in the parliament.
- **Frequent disruptions in parliament** questions the India being a mature democracy where deliberation and consensus should be the key.

Other Scholar's view on the decline of parliament in recent time

- **Vice president Hamid Ansari** –
 - Parliament has become Federation of anarchy where Debates are rare and informed debates rarer.
 - Ruling party and opposition work as 2 warring groups.
- **Pranab Mukherjee**
 - When parliament fails in discharging its law making role, enacts laws without discussion, **it breaches the trust reposed in it by the people.**
 - Parliament must not yield space for law making and policy making to mass mobilization and street politics.

Decline of parliament is also visible in various issues like

The rise of civil society activism, social movements (For example farmer's movement), Judicial activism show that people are not satisfied with the functioning of parliament. There has been a consistent failure on the part of parliament to fulfil the aspiration of the people

- **Judiciary**
 - In India is increasingly and very regularly occupying the space meant for parliament.
 - India is becoming unique example of judicial governance
- **Executive**

- It has also undermined the position of parliament. Parliament get further weakened because of the role of opposition.

Performance of Indian parliament is not satisfactory on the basis of the indicators given by World Bank to measure the performance. World bank has given 6 indicators.

- **Financial** – Parliament is a supreme institution of accountability of the govt. hence parliament's financial accountability on cost of the country have to be evaluated.
- **Compliance** – Parliament is a supreme institution of law making in the country. There is a need to assess how much parliamentarians comply with the rules of procedure which they make themselves for the conduct of parliament.
- **Effectiveness** – How much presence of the institution is felt in the country.
- **Relevance** – How much qualitative improvement the institution is bringing in the life of the people.
- **Sustainability** – Is institution in rise or decline?

Factors responsible for decline of parliament

- **Criminalization of politics** - Unfortunately, law-breakers are made law-makers in India. Many parliamentarians have been accused of heinous crimes like murder, rape etc.
 - According to ADR, in 2004, 24% of the Members of Parliament (MPs) had criminal cases pending against them. This number has increased to 43% of MPs in 2019.
- **The declining role of opposition.** Opposition is vital for functioning of parliamentary democracy.
 - In India initially opposition was irrelevant because of Congress system. Later on opposition gained relevance but role has been destructive.
 - After 1990s, because of globalization, parties do not have differences over policies. Hence they try to escape from the debates on policy matters.
 - India does not have strong committee system. Ideally the rule of parliamentary system is 'opposition should have its say, government should have its way'. It goes against the convention of parliamentary system if opposition does not allow govt. to work, hijack govt.'s initiative and insist on bringing its own agenda.
- **Globalization has made law making an extremely complicated process.** There is a lack of adequate training and capacity building of parliamentarians.
 - Globalization has also weakened the nation state and its rule making powers. Thus indirectly it has reduced the scope for autonomous policy by national parliaments.
- **Other reasons include**
 - Executive overreach like use of ordinance to bypass the legislature and re-promulgation of ordinances.
 - Coalition politics-
 - Defections
 - Politicization of the post of speaker.

Defence that parliament is not in decline

- Out of 273 bills introduced in the 16th Lok Sabha, 240 were passed, 10 bills were withdrawn and 23 bills remain pending.
- In 16th Lok Sabha, on an average, 562 MPs have asked 251 questions and attended 221 out of 312 sittings. Data reveals that 171 MPs asked questions relating to farmers' suicides. In addition, a majority of questions were asked on issues relating to finance, health, family welfare and the railways.
- The average attendance of MPs in Lok Sabha was 81%, while in Rajya Sabha it was 80%.

- Over the last three years, Lok Sabha MPs in the age group of 40-55 years asked 242 questions. In comparison, MPs above the age of 70 years, asked 133 questions

Suggestions for the better functioning of the parliament

NCRWC recommended-

- **Minimum working days should be fixed** - e.g. 100 and 120 for RS and LS and compensation for time lost in disruptions.
- **Dilute the power of the government to be the sole decider of dates of parliamentary sessions.** Calendar of sitting can be fixed by act of Parliament as done in many countries.
- **Convention of Shadow cabinet** like the British Parliament can be adopted.
- **Legislative impact assessment** to assess the real impact of the law made on the targeted group and periodic review of the laws.
- **Ensure maximum attendance and ensure the minimum working hours of the members of parliament** to make the platform more deliberative and representative of the aspirations of the people.
- **Review of anti-defection law** - make a balance between interest of political party and privilege of freedom of speech and expression for parliamentarians
- **Role of opposition should be more constructive** Govt. should be responsive to opposition and opposition to be responsible and constructive
- **Setup special courts against legislators** to address problem of rising no of legislators with criminal backgrounds.
- **Reform or de-politicisation of the post of speaker** – there are suggestion for reforming the institution of speaker and adopt British policy of once a speaker always speaker.
- **Codification of privilege of parliamentarians to define limits and to check** judicial intervention in parliament.

Changing profile of parliamentarians

Legislature is the mirror of the society. If we want to understand the direction of social change, nature of democracy then we've to look at the social profile of the legislatures.

Changing profile helps us in **understanding the continuity and change in the political system of the country as well as in society.**

Changing Profile

Shankar and Rodriguez have studied the changing profile of parliamentarians in 3 broad phase:

Until the 1960s:

- Domination of Brahmins and other upper castes.
- Representation of SC & ST was because of reservations and those elected were from privileged background.
- No match b/w population and representation of OBCs, women and minorities.
- Parliament was dominated by Urban elites educated in foreign universities.
- Basis of the authority of parliamentarians was their participation in the national movement
- Part time as politicians.

From the 1970s to 1990s

- Known as "Twilight" Zone or **Transition zone**".

- Because of certain developments,
 - **Green revolution** which strengthened the position of OBCs the landowning class
 - **Breakdown of Congress system**-rise of regional parties.
 - **Presence of indigenously educated parliamentarians** increased
 - Agriculturist and rural elites gained dominant position.
 - Rise of full-time politicians -Students joining politics (youth parliament by Indira Gandhi)

From the 1990s until now

- Plebianization of Indian democracy came to be established.
 - Role of caste, religion and other ethnic factors increased.
 - Representation of OBCs gone up.
 - No. of educated parliamentarians also increased. -members from diverse backgrounds join parliament
 - The rural-urban divide wasn't prominent
 - In terms of gender, we see stagnation-Until 15th LS representation of women could not go beyond 8-10% **M.N. Srinivas** – low women representation because of patriarchal mind set in Sub conscious mind.

Profile of parliamentarians of recent 17th Lok Sabha

- **Women representation: 78 women** has been elected to the 17th Lok Sabha which represent 14% of the total strength of LS--largest no. of women .5% in the 1st Lok Sabha to 14 % in the 17th Lok Sabha.
- **Age and term:** The average age of an MP is 54 years, **267 first-term MPs in the 17th Lok Sabha**
- **Economic and profession profile:** 39% of MPs have listed their occupation as political and social work, 38% are engaged in agricultural activities. 23% MPs are businessmen.
- **Education:** more than 77% are graduates , 27% of MPs have studied till 12th class, 41-62% are post-graduates.

State legislature

India has adopted the bicameral system at both centre and some states.

MP SINGH held that there are two axis of Indian political system

- Federal Axis
- Parliamentary axis

Not only at the level of Centre **but also at the level of the state, we have adopted the parliamentary form of government having bicameral system**

State legislative councils

At the state level, the equivalent of the Lok Sabha is the Vidhan Sabha or Legislative Assembly and that of the Rajya Sabha is the Vidhan Parishad or Legislative Council.

Constitutional provision

Article 169 provide for creation and abolition of legislative councils in states. in the States of Andhra Pradesh, Telangana, Uttar Pradesh, Bihar, Maharashtra, Karnataka two Houses exist.

Need of legislative councils in states

- **To provide opportunity to the intellect** It provides a **forum for academicians and intellectuals**, who are arguably not suited for the rough and tumble of electoral politics.
- **Better deliberation of the policies as well as proposed legislations-** it provides a mechanism for a **soberer and considered appraisal** of legislation that a State may pass and act as a revising chamber.
- **Check against hasty legislations**
 - If there are two chambers, the measures passed by one would be scrutinized by the other minutely. Hence the laws enacted finally would be carefully analyzed and thoroughly discussed.
 - It provides **wiser counsel** to the State assemblies by including experts in Legislative council.

Criticism of state legislative councils

- **There has been no evidence of effective check** – Because of the constitutional provisions Whether a Bill is approved by the Council or not, assembly can still go ahead after four months.
- **It is an unnecessary drain on the exchequer** expenditure and becomes an unnecessary luxury for defeated candidates of the ruling party.
- It can be used to provide **unnecessary delay** without serving any purpose as ultimate authority lies with the state assembly.
- Another issue is that graduates are no longer a rare breed; also, with dipping educational standards, a graduate degree is no guarantee of any real intellectual heft.

Comparison with the Rajya Sabha

- The legislative power of the Councils is limited it is not as broad as Rajya Sabha.
- Unlike Rajya Sabha which has substantial powers to shape non-financial legislation, Legislative Councils lack a constitutional mandate to do so.
- Assemblies can override suggestions/amendments made to legislation by the Council.
- Unlike Rajya Sabha MPs, MLCs cannot vote in elections for the President and Vice President.
- The Vice President is the Rajya Sabha Chairperson; an MLC is the Council Chairperson.

Opinions of scholars and committee on State legislative councils

The parliamentary standing committee reports on the setting up of legislative recommended that

- The **Central government should evolve a national policy for the creation of an Upper House in State legislatures** so that it is not abolished by the incumbent government. This is in recognition of the fact that **the issue of setting up legislative councils has become a highly politicized decision.**

According to Yogendra Narain, former Secretary-General of the Rajya Sabha

- **“Legislative councils are a way to increase the political space.** For several parties there is the pressure to accommodate people who cannot be elected and are not nominated to other corporations or State bodies,
- Legislative Councils are subject to varied and inconclusive discussions around their creation, revival and abolishment.

Overall Conclusion for the legislature

Shankar and Rodriguez in their Book – “The Indian Parliament: A Democracy at Work “Legislature of a nation is the mirror of its society and people. It is the visible face of democracy in India. It reflects

people's needs and aspirations. It is mandated to represent the interest and aspiration of every citizen and decide direction of social change highlight their problems and find solutions to address them. Although there has been a debate on decline but it's role as a body successfully responding to the India's changing needs in the last 7 decades shows its formidable role played over the time against the western scholar's scepticism of its failure in near future.

Union Executive

Constitutional provisions

- **Articles 52 to 78 in Part V** of the Constitution deal with the Union executive.
- The Union executive consists of the President, the Vice-President, the Prime Minister, the council of ministers and the attorney general of India.

Nature of Political system in India – parliamentary form of Govt.

- The Constitution of India has provided for a **parliamentary form of government**.
- The Preamble provided that India shall be a democracy, but the pattern of government as outlined in the constitution indicates that Indian shall be having a Parliamentary form of government.
- It is also known as cabinet government, responsible government or Westminster model of government and is prevalent in Britain, Japan, Canada, India among others.
- In this system Executive is accountable to the Parliament and stays in office so long as it enjoys the latter's confidence.

PRESIDENT

India has a President but not a Presidential form of Government but parliamentary form of government. Indian President is head of the State but not the Executive. He represents the nation but does not rule the nation, as India has a Parliamentary system of Government. The Supreme, Court has consistently taken the view that position of President (and Governors) under the Constitution is similar to the position of Crown under the British Parliamentary system. It is the essence of Parliamentary Government that the real executive powers should be exercised by the Council of Ministers responsible to Lok Sabha.

Constitutional Position of the president

- For determining constitutional position of the President, particular reference has to be made to the provisions of Articles 53, 74 and 75. These are:
 - **Art. 52** provide that there shall be a President of India.
 - **Article 53-** The executive power of the Union shall be vested in President and shall be exercised by him either directly or through officers' subordinate to him in accordance with this Constitution.
 - **Article 74-** There shall be a council of ministers with the Prime Minister at the head to aid and advise the President who 'shall', in the exercise of his functions, act in accordance with such advice.

- **Article 75-** The council of ministers shall be collectively responsible to the Lok Sabha . This provision is the foundation of the parliamentary system of government.
- **Article – 77-** All executive functions are executed in the name of President; authenticated in such manner as may be prescribed by rules to be made by President

Nature and actual position of the institution of President

- President has been made only a nominal executive; the real executive being the council of ministers headed by the prime minister
- **Dr. B.R. Ambedkar summed up** the nature of the institution of the President in the following way
 - President is the head of the State but not of the Executive. He represents the nation but does not rule the nation. He is the symbol of the nation. His place in administration is that of a ceremonial device or a seal by which the nation's decisions are made known.
- **Shamsher Singh Case and Ram Jawaya Kapoor case** -President is constitutional head. It is lower house of parliament and not president who has to hold executive accountable.
- **President represents the dignified arm of executive.** PM is the real centre of power. Constitution gives the role of friend, philosopher and guide to President. President is not the captain of ship of state.

Controversy over the position of the president

President's Discretion

- **Discretion of the president**
 - **Appointment of Prime Minister** - President's discretion is limited. Thus, when a single party gains an absolute majority and has an accepted leader, President's choice of selecting Prime Minister is a mere formality.
 - **Dismissal of a Minister/or Cabinet:** -Though Ministers hold office during the pleasure of President, but President is bound to exercise his pleasure in accordance with Prime Minister's advice. Thus, it is a power of Prime Minister against his (undesirable) colleagues.
 - **Dissolution of Lok Sabha:** So long as Prime Minister and his cabinet enjoys confidence, the President is bound to dissolve Lok Sabha only when advised by Prime Minister. But, this advice will not be binding on the President, when Prime Minister loses his majority or unable to prove his majority or a vote of no confidence passed against him or when he is not facing the Parliament, but President has proof that ruling party does not have a majority (**Shamsher Singh's case**)

Analysis of discretion by the scholars

- **As held by Ambedkar** – the president Discretion is limited, he is the head of State but not of the executive. He represents nation but does not rule the nation. His place in the administration is that of a ceremonial device on a seal by which the nation's decisions are made known.
- **Alladi Krishna Ayyar**, a member of the Drafting Committee of the Constituent Assembly, observed that the word **President** used in the Constitution **merely stands for the fabric responsible to the Legislature**. What he means by the term 'President' is the Union Council of Ministers which is declared to be collectively responsible to the House of People i.e. Lok Sabha.

Conflict Between the PM and president

What is the Conflict

The power and the position of the presidential office which **ever since the inception** of the constitution, has been a subject of acute controversy.

There have been two schools of thought which argue upon the powers of the President.

1. **The 'Realist' School** harp upon the argument that the President of India is a formal and constitutional figure head working **only on aid and advice** of the Council of Ministers
2. **Legalist School** argues that there are certain situations when President rejects the advice tendered by the Council of Ministers and assumes significant powers to uphold the constitution and to maintain peace and order.

Dr. Ambedkar said that the President will be generally bound by the advice of the ministers and he can do nothing without or against their advice. Though it is nowhere in writing in the Constitution that President is bound to accept the advice of Council of Ministers but it has been a convention under parliamentary form of government that the head of the state has to accept the advice of the Minister.

How various judgements settled the controversy

1. **24th constitutional amendment act - 1971**, partially addressed the infirmity – it became binding on president to give assent to constitutional amendment bills (CAB).
2. **42nd constitutional amendment act -1976** It ended all infirmities. It brought the institution in accordance to the theory of parliamentary form of govt.
 - a. Made it mandatory for president to act on aid and advice.
 - b. It became clear that the ground of impeachment will be when president does not act as per advice.
3. **44th constitutional amendment act -1978**. Restored partial discretion as president could send the advice back for reconsideration, but only once.
4. According to the constitutional experts, 44th AA was not correct in accordance to the parliamentary system. It was not motivated by any democratic concerns. It was motivated by political calculations. i.e.
 - a. In case PM is from Congress and President from non-Congress. Non-Congress parties can utilize the institution in their favor.
 - b. When 42nd as well as 44th AA has been done, pocket veto has been left as it is. It seems the objective was to utilize the institution of president.

Presidential Activism

Presidential activism. -It is a situation when president acts in a discretionary manner and plays an active role extent to going against the government or council of ministers. Presidential activism in Indian context also means President entering in the domain of Prime Minister.

The concept of co-habitation

- It is a feature of French constitution (semi-presidential type). Where president as well as prime minister have executive powers and not just nominal powers. In France, the position of president is good/smooth when prime minister is also from his party. However, the problem arises when they are from different parties. Such a state is called co-habitation.

There are occasions when such system has emerged in India, co-habitation impacts the smooth functioning.

Is Presidential Activism Desirable ?

Presidential activism is **not much desirable** in the parliamentary form of government.

1. It should not be equated with judicial activism.

2. It is not correct as per the principles of parliamentary system. President is not an institution of accountability, it is parliament and ultimately people.
3. The case studies of presidential activism show that the activism was directed more by party considerations than democratic considerations.
4. Whenever the position of Prime Minister is weak because of hung parliament, there is a scope for other institutions like Judiciary, President to increase their power.

Activist presidents or Occasions of co-habitation

1. **Dr. Rajendra Prasad** – Despite being in the same party he opposed the Hindu Code bill opposing to Nehru.
2. **Gyani Zail Singh**- He exercised the Pocket veto over Post Office bill proposed by Rajiv Gandhi
3. **KR narayan** - K.R. Narayanan was creative in upholding institutional obligations of an office and preserving the republic's equilibrium. He became the protector of constitutional morality, the most cherished republican virtue. Most gratifyingly, he twice used his position to rein in errant Governors, even though they had the ruling establishment's patronage. **For example**, Rejection of imposition of Art 356 many times. He Gave interview on republic day on DD against the convention.
4. **APJ Abdul Kalam** – He is called as Populist president; a president is not expected f to have high level of engagement with the people. **He sent the Office of Profit Bill back/reconsideration**

Conclusion

As per **Former President R VenkataRaman** who has been praised for developing a healthy convention and minimising the discretion – He described the position of President as "**Emergency Lamp**". It means Prime Minister is the main switch. Only when main power is off, emergency lamp comes to light. It means so long PM and Council of Ministers exists. President has no discretion. It is to be noted that unlike states, there cannot be a President at union. President is bound to act on the aid and advice of care taker government.

Election of the president

- President's election is held in accordance with the **system of proportional representation by means of the single transferable vote** and the voting is by secret ballot.
- This system ensures that the successful candidate is returned by the absolute majority of votes

Why Indirect election was adopted

- Some members criticised the system of indirect election for the President as undemocratic
- Adopted due to following reasons
 - **Harmony with the parliamentary system** of government envisaged in the Constitution. Under this system president is only a nominal executive and real power lies with the PM so direction election of the president will result into conflict between the PM and president.
 - **Direct election is costly and time and energy-consuming** –So it is not wise to invest so much money for the nominal post like president.

Power and functions of the president

- **Executive powers**
 - **All executive actions** are taken in his name.
 - Make rules for more **convenient transaction of business of the Union government**,
 - **Various appointments like** AG, CAG, UPSC, EC, GOVERNER

- Can declare any area as **scheduled area** and has powers with respect to that.
- **Legislative Powers**
 - Summon and prorogue parliament.
 - Giving assent to the bill- He exercise this power w.r.t both parliament and state
 - Ordinance making power (**Article -123**)
 - Union territory -- make regulations for the peace, progress and good government of some UT.
- **Financial Powers**
 - For introduction of money bill-prior permission of president is required
 - He lays Union budget in the parliament.
- **Judicial powers**
 - Appoint --HC and SC judges. (**Article 217**)
 - He can seek advice from SC (**Article 143**)
 - Pardoning power. (**Article 72**)
- **Diplomatic Powers:** International treaties and agreements are signed in his name. He represents India in international forums.
- **Military powers:** President is the supreme commander of the defence forces. He can declare war or conclude peace, subject to approval by parliament.
- **Emergency Power:** The President exercises certain extraordinary power to deal with an emergency situation which are as follows:
 - **National emergency - Article 352** of the Indian Constitution talks about the national emergency. National emergency is imposed whereby there is a grave threat to the security of India or any of its territory due to war, external aggression or armed rebellion.
 - **President Rule - (Article 356):** Failure of State Constitutional Machinery. In Case of failure of Constitutional machinery in a State, the President of India is authorized to make a Proclamation to that effect.
 - **Financial Emergency (Article 360)-** Proclamation of Financial Emergency by the President.

Ordinance making power of the president

Under **Article 123**, The president can promulgate ordinances in the wake of any unforeseen circumstances during the recess of the Parliament. Similar powers are granted to the Governor under Article 213.

Misuse and Re-promulgation of ordinances

- There are instances that legislature is being deliberately bypassed to avoid debate and deliberations on contentious legislative proposals. This is against the ethos and spirit of democracy.
- Instances of re-promulgations and misuse
 - **For example** – it was used fairly regularly. In the 1950s, central ordinances were issued at an average of 7.1 per year.
 - Bihar had issued 256 ordinances between 1967 and 1981, of which 69 were re-promulgated several times, including 11 which were kept alive for more than 10 years.
 - The last couple of years the average ordinances issued per year has seen a spike, 16 in 2019, 15 in 2020.

Issues with the ordinance making power

- It is **not a parallel power of legislation** as it is available only if Parliament is not in session.

- It is co- extensive as regards all matters to the Parliament except duration and **constitutional amendments**. It **cannot amend constitution**
- President can promulgate ordinance only if he is satisfied that a situation has emerged which necessitates it. **Cooper case:** President's satisfaction regarding the promulgation of ordinance can be questioned on grounds of being malafide.
- Lok Sabha rules require that **when a bill seeks to replace an ordinance** is introduced, a **statement explaining the circumstances that necessitated** it should also be placed before the house
- **Re-promulgations without any attempt to get the bill passed is violation of the Constitution and is liable to struck down.**

SC Rulings-

- **DC Wadhwa vs. State of Bihar, 1987:** the legislative power of the executive to promulgate Ordinances is to be used in **exceptional circumstances** and not as a substitute for the law making power. It was examining a case where a state government re-promulgated a total of 259 Ordinances and some of them for as long as 14 years.
- **Krishna Kumar Sings Vs State of Bihar, 2017-** SC held that failure to place ordinance before the legislature constitutes abuse of power and a fraud on the Constitution.

Reasons

- When majority doesn't exist in either house e.g., **Rajya Sabha dominated by opposition parties.**
- **Dysfunctional Parliament-** where **sessions are washed out without much business conducted** e.g. Parliament sits only for 65days/year and 30% of that time is lost in disruptions.
- **Deliberate non-cooperation by opposition on policies of govt.**
- Unhealthy convention developed over the years where **legislature powers are violated without any consequence.**

Constitutional principles that are violated

As observed by the Supreme Court, re-promulgation of ordinances is a "fraud" on the Constitution and a subversion of democratic legislative processes, especially when the government persistently avoids placing the ordinances before the legislature. It violates various principles of constitution like:

- **Infringement of principle of separation of powers:** The power of the executive to issue ordinances goes against the principle of separation of powers as law making is the domain of legislature.
- **Subversion of democratic legislative processes-** Government persistently avoids placing the ordinances before the legislature violating the principle of democratic legislative process and passing of laws after a healthy debate and deliberations.
- **Violation of the judiciary directions** – Despite supreme direction to follow restraint on re-promulgation of ordinance it has not been followed.
 - For example, in 2013 and 2014, the Securities Laws (Amendment) Ordinance was promulgated three times.

- Similarly, an ordinance to amend the Land Acquisition Act was issued in December 2014, and re-promulgated twice – in April and May 2015.
- **Re-promulgations are Usurpation of Legislative Power because it has been provided only for emergency purpose but through re-promulgation it was made an alternative to law:** As law making is a legislative function, this power is provided for urgent requirements. To re-promulgate is to effectively extend the life of an ordinance and lead to the usurpation of legislative power by the executive.

Conclusion

- Ordinances are to tackle exigencies when the legislature is not in session, so executive must show self-restraint and should use ordinance making power only in unforeseen or urgent matters and not to evade legislative scrutiny and debates to show that India is not only the world's largest democracy but also it is a substantive and matured democracy aiming to transform the life of millions of people of India.

Prime Minister

India has adopted the parliamentary form of government that is also called the **cabinet form of government**. In a cabinet form of govt. PM is considered as **the captain of the ship of the state**. He is considered as the **keystone of the cabinet architecture**. He is appointed by the president and other ministers are appointed on his recommendation and by the president.

Role description of the prime minister

Various scholars have interpreted the position of prime minister in various ways

- **R.G. Greaves-** "The Government is the master of the country and he (Prime Minister) is the master of the Government."
- **Iver Jennings** - He is, rather, a sun around which planets revolve.
- **Ramsay Muir** -He described Prime Minister as "the steersman of steering wheel of the ship of the state."
- **Lord Morley** described the role of prime minister as primus inter pares' (first among equals) and key stone of the cabinet arch'.

Evolution of the institution of PM

- **Nehru Era**
 - During the congress system particularly during the era of Nehru, the situation of PM was **first among equals** when Sardar Patel was the Deputy PM. After the death of Patel, Nehru became **moon among the stars**.
 - The concentration of power in the office of PM kept on increasing even after the Pt. Nehru. As the position of PM kept on becoming stronger the position of council of minister kept on becoming weak.
- **Lal Bahadur Shastri era –**
 - Lal Bahadur Shastri became India's PM after Nehru's demise. Shashtri's tenure was too short to establish the trend but yet we can say that during his term the centralisation of power in PMO started , which means declining of cabinet.
- **During the rule of Indira Gandhi-**
 - The institution of PM started developing the **features of presidential form of government**.
 - She has undermined the Council of minister and has put greater reliance on personal advisors. It was one of the **factor for the decline of congress system**.

- **Since 1989 –Rise of coalition government** since then coalition government is the regular feature
 - Coalition govt. is a bargain. Coalitions government weakens the position of PM.
 - Coalition govt. weakens the position of PM but it is not necessary.it also depends upon the personality and political personality.
 - We can give the example of **Atal Bihari Vajpayee** who managed large number of parties and has provided the 1st example where coalition govt. completed full term.
- **The UPA government and Manmohan Singh -**
 - Sanjay Baru, his media advisor, described Dr Singh as ‘the accidental Prime Minister’ in 2004 of the Congress-led United Progressive Alliance.
 - **Manmohan Singh could manage the 1st term (2004-2009), but he could not manage the 2nd term (2009-2014)**
 - The PMO again returned to a **low profile** phase because of this being a **coalition government**.
 - A new organisation headed by the Congress President came into existence. It was known as **National Advisory Council (NAC)**. It was widely believed that important policy decisions and appointments including one in the PMO were decided by the national advisory council.
- **The NDA (national democratic alliance) with Narendra Modi as Prime Minister**
 - PMO is regarded as the most dominant PMO since the days of Mrs Indira Gandhi. Selecting the officers of his trust is the prerogative of the PM.
 - PMO has emerged as the hub of decision-making and play a crucial role in streamlining decision-making and interaction with other ministries but with adequate check and balance.
- Above analysis shows that position of PM will not be as powerful as in the case where his party enjoys majority in the house but it is not necessary that it will result into the weakening of the institution because of the various factors working together.

Central Council of Ministers

Constitutional provisions

- Two **Articles (74 and 75)** deal with them in a broad, sketchy and general manner.
- **Article --74**
 - Deals with the **status** of the council of ministers. There should Council of Ministers to aid and advise President
- **Article -75**
 - Deals with the **appointment, tenure, responsibility, qualification, oath and salaries and allowances of the ministers**

Responsibility of minister

- **Collective Responsibility-** Council of ministers are collectively responsible to the lower house of parliament.
- **Individual Responsibility** ministers hold office during the **pleasure of the president**,
- **No Legal Responsibility-**

- Legal responsibility is the feature of British system in which every order of king is countersigned by a minister and if the order violates any law the minister is held responsible. The minister is answerable in the court. This is legal responsibility
- The orders of President/governor is not countersigned by any minister. Also, the courts are barred from enquiring into the nature of advice rendered by ministers to the President/governor. Hence we say that ministers are not legally responsible.

Role of cabinet

- It is the **highest decision-making authority in our politico-administrative system.**
- The **chief policy formulating body** of the Central government.
- The **supreme executive authority** of the Central government.
- **Chief coordinator of Central administration.**
- **Advisory body to the president and its advice is binding on him.**
- **Exercises control over higher appointments.**
- Deals with all **foreign policies and foreign affairs.**

Role description

- **Sir John Marriott**- "The Cabinet is the pivot around which the whole political machinery revolves".
- **L.S. Amery** - "The Cabinet is the central directing instrument of Government"
- **Bagehot** - "The Cabinet is a hyphen that joins, the buckle that binds the executive and legislative departments together"
- **Sir Ivor Jennings** - "The Cabinet is the core of the British Constitutional System. It provides unity to the British system of Government".

STATE EXECUTIVE

Syllabus -. Principal Organs of the State Government: Envisaged role and actual working of the Executive, Legislature and High Courts

Previous year questions

2016	Critically examine the role of governor in recent times
2015	Critically Analyse the discretionary powers granted to the governor by the Indian constitution
2011	In normal conditions, the Governor is a constitutional executive but in case of constitutional crisis, he can become a powerful and effective executive. Discuss.

Governor

Constitutional provisions w.r.t Governor

- **Article 153**
 - It 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.
- **Article 154**

- Executive power of the state shall be vested in the governor which the governor has to exercise in accordance to the constitution
- Governor is head of the state executive. -nominal head.
- **Article 159**
 - **Oath of the Governor.**
- **Article 160** enable the Governor to discharge certain function in case of certain contingencies.
- **Article 161** mentions that the Governor can grant pardons, suspend, remit and commute sentences.
- **Article 213** deals with the power of the Governor to promulgate ordinances.

System of appointment

System of appointment remains the root cause of misuse of discretionary powers of governor. At the same time manner of practice of appointment and removal of governor itself have remained controversial.

Debate in constituent assembly

- **Directly elected:** Not feasible because there will be 2 centres of power.
- **Elected by Assembly:** Considered not feasible because governor would be controlled by CM.
- **Appointment by Union:** Appeared to be the most feasible considering the above dilemma

Constitution mentions only 2 qualifications:

- Article 157 = Should be the citizen of India
- Must have completed the age of 35 years

Debate in CA and consensus that persons of eminence not having active political background should be appointed

- **Nehru's opinion**
 - Governor should be a person is of eminence.
 - Person not having active political ground in recent past
 - Selected person not to be from same state
 - Prior consultations with CM-if CM not comfortable -reject - should not be appointed

Why the present method of election?

- Direct election of the governor is incompatible with the parliamentary system established in the states.
- Direct election --create conflicts between the governor and the chief minister.
- Governor only a constitutional (nominal) head, --no need of huge election.
- An elected governor would naturally belong to a party and would not be a neutral person and an impartial head.
- The system of presidential nomination enables the Centre to maintain its control over the states.

Observations on the present system of appointment

- **Healthy conventions not followed**
 - Post to **rehabilitate the defeated or rejected politicians** and retired bureaucrats
 - **The Spoils system** (i.e., appointment of favourites, practiced in US) has been introduced.
 - **Controversy over the appointment of retired CJI.**
- **CM's are not consulted**

Suggestions

- **Punchhi Commission:** - Recommended that Appointment of the governor should be entrusted to a committee comprising the Prime Minister, Home Minister, Speaker of the Lok Sabha and chief minister of the concerned state.
- **Consultation with the CM has been suggested by Rajmanna committee**
- **Sarkaria Commission:** - The Governor must be a person from outside the State.

System of Removal of Governor

Governor has **no security of tenure** it depends on the **pleasure of the president**.

Various debate and observations on the removal of governor

- **BP Singhal vs Union of India.**
 - President can remove governor at any time.
 - However, the use of power can't be exercised in arbitrary and capricious manner.
 - Power to be used only in rare exceptional circumstances for valid and compelling reasons.
 - Different ideological orientation not sufficient to remove him.
- **SC observations**
 - Union govt. can remove without giving any reason
 - Governor has no right to be heard.
 - Practice is removing governor with the change of govt. at centre
- **Punchhi commission**
 - use of pleasure doctrine without appropriate conduct is against constitutional governance
 - Governor should be given right to defend his position

Role of Governor

1. **The Governor is the State's chief executive head.** But, like the President, he/she is only a ceremonial head of State (titular or constitutional head).
2. In addition, **the Governor serves as a representative of the Union Government.** Thus, the Governor's office serves a dual purpose.

Power and functions of the governor**1. Executive Powers-**

- a. He appoints the leader of the majority party in the State Legislative Assembly as the Chief Minister of the State.
- b. He appoints other members of the Council of Ministers on the recommendation of the Chief Minister.
- c. He acts as the chancellor of universities in the state. He also appoints the vice-chancellors of universities in the state.
- d. He appoints the advocate general of a state, state election commissioner and chairman and members of the state public service commission.
- e. He directly rules a State when there is the imposition of the President's rule in the State.

2. Legislative Powers

- a. Under Article 175 Right of the Governor to address and send messages to the house or houses of the state legislature.
- b. Under Article 213 he can promulgate ordinances when the state legislature is not in session. These ordinances must be approved by the state legislature within six weeks from its reassembly.
- c. He can nominate one member to the State Legislative Assembly from the Anglo-Indian Community.
- d. Every bill passed by the state legislature will become law only after his signature. But, when a bill is sent to the Governor after it is passed by the legislature, he has the option to give his assent to the bill or withhold his assent to the bill or return the bill for the reconsideration of the legislature.

3. Financial Powers

- a. Money bills can be introduced in the state legislature only with his prior Recommendation.
- b. He can make advances out of the state Contingency Fund to meet any unforeseen expenditure.
- c. He constitutes a finance commission after every five years to review the financial position of the panchayats and the municipalities.
- d. Judicial Powers

4. Judicial Powers

- a. He appoints the Advocate -General of the State.
- b. He makes appointments, postings and promotions of the District Judges in consultation with the State High Court.
- c. He can pardon, commute or reprieve punishment on receipt of appeals for mercy except for death sentence.

Discretionary powers of the governor

- **Article 163(2):** Determining discretionary power used by govt. whether it was his discretion or not will be by him only and cannot be questioned.
- **Article 356:** Recommending the president's rule.
- **Article 200:** Giving assent to the bill or withholding the assent.
- **Article 201:** Reserving the bill for president.
- **Article 361:** Like President, Governor also has immunity.

Analysis of the discretionary powers

- Discretionary powers should not be equated with arbitrary powers.
- Given as a safety valve to be used in extreme situations.
- Discretion of governor is the discretion of governor not the discretion of union govt.
- Many times used by the union govt. in the interest of the party.

Recent cases on governor's discretion

Article 174 of the Constitution authorizes the Governor to summon, dissolve and prorogue the state legislative assembly. There are numerous other **examples** related to the controversial role of the governor

- **2016 – Uttarakhand** -Governor of Uttarakhand dissolved assembly a day before CM was asked to prove his majority. He took the decision on the basis of "**STRING OPERATION**" reported in media that CM has offered bribe to MLA's.
- **Goa Crisis – 2017** - In the election, congress and NCP had 18 seats, just 3 short of majority and BJP had 13 seats with the remaining 10 seats to other parties. Governor invited BJP rather than inviting the single largest party. Matter went to the Supreme Court. CJI Kheher advised congress to hold dharna before the governor rather than approaching the court.
- **Manipur case 2017** –In Manipur assembly elections 2017, congress got 28 seats, BJP got 21 seats, governor invited BJP, BJP was alleged to gain the support of others by offering 7 out of 11 cabinet seats to other parties leaving only 3 seats for BJP's own MLAs who decided to quit the party and align with the congress resulting into loss of esteem for law in a sensitive state.
- **Maharashtra government**
 - President Ram Nath Kovind has recently (in 2019), approved a proclamation imposing President's Rule (Article 356) in Maharashtra, following a recommendation from the Governor.
 - The Assembly has been kept under suspended animation.

- **Rajasthan government**

- The Rajasthan Governor has returned the proposal by the State Cabinet, seeking to convene a session of the Assembly, for the second time, which would have allowed the Rajasthan chief minister to prove his strength on the floor of the House.
- This has raised legal questions on the powers of the Governor to summon a House.

Observation of Punchhi commission on governor's discretionary power.

- Governor's discretionary power to be constructed narrowly.
- They should not appeal fanciful or arbitrary.
- Choice of the Governor should be dictated by reason, activated in good faith, tampered with caution.
- **Article 200: Discretionary powers like reserving bill for President's assent**
 - Punchhi recommendations
 - **Objective guidelines should be framed** and should not be done on case to case basis
 - Time limit to be set for Governor as well as President to take a decision wrt bill.
 - Taking away power of Governor to withhold assent.
- **SC in Arunachal Pradesh case on recommendation of president rule**
 - Governor's discretion is restricted
 - Re-iterated that Governor should act in accordance with aid and advise of CoMs
 - Restoration of previous government
 - Widened judicial review to include Governor's actions
 - Article 163 says that Governor has final say on what falls under Governor's discretionary powers.
- **The five-judge Constitution Bench in the Nabam Rebia judgment of 2016** ruled that Article 163 does not give Governors a "general discretionary power" as is often misunderstood. "The area for the exercise of his (Governor) discretion is limited. Even in this limited area, his choice of action should not be arbitrary or fanciful.

Scholar's and Judiciary view on Institution of the governor

- **Paul Brass has described what shaped the institution of governor** - The constitution of India was written in the atmosphere of fear. Fear of secessionist trends, communal violence and other social disturbances and These factors shaped the position of governor.
- **N A Palkhivala:-** Governor should be an instrument to maintain the fundamental equilibrium and uphold the Constitutional mandates.
- **Dr. B.R. Ambedkar** described how a Governor should use his discretion not as "representative of a party" but as "the representative of the people as a whole.



Various observation by the judiciary on the position of the governor

- **SC in Hargovind Pant Vs Raghukul Tilak 1979 case**
 - Every person appointed by President is not employee of the union govt.
 - Governor is the constitutional office of dignity.
 - He is not amenable to directions of union govt.
 - Governor's discretion is 'governor's discretion' and not Union Executives' discretion.
 - Governor is not answerable to Union Govt. for the manner in which he carries his function.
- **SR Bommai Case 1994** – The case related to challenging the **Governor's decision to recommend President's Rule.**
 - The verdict also 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**, who is often referred to as the agent of the Central government.

- The Supreme Court declared that the Constitution is federal and referred to **federalism as its "basic feature."**
- **The President's power** to dismiss a state government is **not absolute**, and that the President should exercise the power only after his proclamation (imposing his/her rule) has been approved by both Houses of Parliament.
- In **2016, SC verdict on Arunachal Pradesh's political crisis.**
 - Governor is neither the employee of union govt. nor subordinate of Gol.
 - Governor is a mere figurehead as well as governor doesn't have arbitrary power to summon the assembly.
 - SC has accused union govt. for thrashing the constitution.
 - Governor's power can't be exercised in an arbitrary manner
 - Governor can't make speaker to act in manner he desires
 - Governor must keep himself away from political horse trading, unsavoury manipulation, any disagreement, dissention, discontent within the party.
 - Discretion arises only when more than 6 months have been lapsed and assembly has not been called.
- **SC in Ram Jawaya Case and again in Shamsher Singh case** has held that the
 - **Position of President and that of Governor is similar and both are constitutional heads. But there exist differences like**
 - President is Elected while governor is nominated.
 - Removal of president is done through impeachment but governor holds it post pleasure of president

Should the office of governor be retained or not?

There has been debate on the existence of the post of governor itself because of its controversial role highlighted over various incidents

Observation or view of various scholar's and committee on existence of post of governor

- **Punchhi commission and Former President Pranab Mukherjee** emphasised on the important role of Governor in the context of:
 - Increasing threat to Internal security.
 - Maintaining communal harmony.
 - Safeguarding rights of SCs and STs.
- **Sarkaria commission**
 - Governor is the Lynch pin in the cooperative federalism.
 - Governor is expected to bring national perspective at the state level.
 - Expected to communicate the aspiration of the state to the union.
 - Governor has not acted as Lynchpin of cooperative federalism rather it has become the long arm of the union at the state.
- **PM Manmohan Singh-4 mantras to be observed by Governor**
 - You are the sole judge of what is right and what is wrong.
 - It is your judgement to understand the mandate of constitution.
 - You have to judge what is the best in the interest of country.
 - You have to see what people expect from you.

Reforms needed in the Institution of the governor

A wide spectrum of suggestions in regard to various aspects of the institution and role of the Governor have been made by various commissions.

1. Recommendations of Sarkaria Commission (1988):

- The Sarkaria commission made the following recommendations regarding the appointment of the Governor:
 - Governor should be an eminent person;
 - must be a person from outside the State;
 - must not have participated in active politics at least for some time before his appointment; it even suggested that when the state and the center are ruled by different political parties, the governor should not belong to the ruling party at the center.
 - he should be a detached person and not too intimately connected with the local politics of the State;
 - he should be appointed in consultation with the Chief Minister of the State, Vice-President of India and the Speaker of the Lok Sabha;
 - It even recommended that the State Government should be given prominence in appointing the Governor.
 - His tenure of office must be guaranteed.
 - After demitting his office, the person appointed as Governor should not be eligible for any other appointment or office of profit under the Union or a State Government except for a second term as Governor or election as Vice-President or President of India, as the case may be;
 - At the end of his tenure, reasonable post-retirement benefits should be provided

Governor should appoint CM based on following principles:

- Leader of the majority party or parties,
- Should seek the vote of confidence in the assembly within 30 days of his appointment as the CM.
- As long as the council of ministry possess a majority in the assembly the governor cannot use his discretionary powers.

2. Recommendations of M.M Punchhi Commission (2010):

- Following are the **Punchhi commission's recommendations** on Governor:
 - Like the Sarkaria commission, it also recommended that the person who is slated to be a Governor should not have participated in active politics.
 - It recommended that the state chief minister should have a say in the appointment of the governor.
 - It also recommended that Appointment of the governor should be entrusted to a committee comprising the Prime Minister, Home Minister, Speaker of the Lok Sabha and chief minister of the concerned state. The Vice- President can also be involved in the process.
 - The commission recommended that the doctrine of pleasure should end and should be deleted from the constitution.
 - It recommended that the Governor should not be removed at the whim of the central government. Instead, a resolution by the state legislature should be there to remove the Governor.

3. The SC has many times emphasized the urgent need for implementing Sarkaria commission's recommendations on selection and appointment of governors. In light of this, proper implementation of these recommendations would help in protecting the sanctity of the office of the Governor.

Conclusion

Soli Sorabjee in his book "The Governor, Sage or Saboteurs", has held that, there is no other institution which has become so much controversial. He suggests that governors can do great good if they are good governors. They can do great harm if they are bad governors. This shows that the role of governor is critical like a lynch pin.

Grassroots democracy

Previous year questions

2021	Do you think that despite having limitations on Panchayati Raj institutions have strengthened the process of democratic decentralization? Give your view.
2020	To what extent 73 rd and 74 th amendment of the Indian constitution enhanced women's empowerment.
2019	Political decentralization has not been matched by administrative decentralization at the grass roots level. Explain
2018	Comment on: Panchayat Raj is an effective instrument for women empowerment.
2018	Examine the provisions of Panchayat Extension Services Act (PESA), 1996.
2017	Has the 73rd Constitutional Amendment empowered women in panchayats in India? Discuss.
2016	The goal of Good governance will be achieved only by strengthening the grass root level democracy.
2015	Examine the role of Panchayati Raj Institutions and Urban Local Bodies in deepening of democracy in India.
2014	Explain how the participation of women impacted the functioning of rural local bodies in India.
2013	Examine the changing structure of Panchayati Raj institutions with special reference to the 73rd Constitution Amendment Act.
2008	Comment on: The correlation between democracy and development in India

Democracy

Democracy can be understood in 2 ways Democracy is both an ideal to be pursued and a mode of government to run the administration.

- **As an ideal-** in this sense democracy aims essentially to preserve and promote the dignity and rights of the people and aspires achieve social justice, foster the economic and social development of the community, strengthen the cohesion of society
- **As a form of government,** democracy is the best way of achieving these objectives; it is also the only political system that has the capacity for self-correction. Functioning of the democratic government ensures the rule of law side-lining authoritarianism.

Grassroots democracy

Grassroots democracy is the level of democracy in which the citizen has the most effective opportunity to actively and directly participate in decisions made for all of society.

Grassroots democracy is a system of governance in which **Gram Panchayats are the basic units of administration.** Panchayat Raj Institutions (PRIs) have been involved in the programme implementation and they constitute the core of decentralized development of planning and its implementation. Panchayat Raj Institutions aim at translating the **Gandhian dream of village self-governance (Gram Swaraj)** and to become an effective tool of rural development and reconstruction

Philosophical basis of grassroots democracy

- **Gandhi's** idea of **Swaraj**
- **MN Roy** idea of **radical democracy.**
- **Vinova Bhave's** idea of **Antyodya**

Vision behind Panchayats

Villages have been the worst affected because of the colonial policies. India inherited mass rural poverty hence **Gandhi proposed Panchayats as institution for revival of villages and address rural poverty.** He suggested the 2 ways for the revival.

- **Land reform**
 - He believed that land to the tiller was only way to handle poverty/hunger.
 - Consolidation of land holding and development of co-operatives.
- **Democratic decentralisation/Panchayati Raj**
 - To give people of villages control over local resources thus would result into equitable and sustainable development.
- **Gandhi was against the powerful state**, he considered as the "**symbol of violence**" So he **put his faith in the co-operative societies** and grassroots democracy rather than state led bureaucratic model. His conception of stateless society has also been considered as anarchic in nature.

Panchayats as a tool for rural development

1. The twin objectives of the Panchayati Raj system as envisaged by the Constitution of India are to ensure **local economic development and social justice in rural areas.**
2. Panchayats help in enabling rural population to assume the leadership of self-governing institutions at micro-levels of administration for decentralized planning and management.
3. There are also the various **flagship programmes for the rural development** such as Swachh Bharat Abhiyan, make in India, Digital India, Skill India, and Jan Dhan Yojana which are at the core of the rural development and **local governments play a pivotal role** in many of these programmes.
4. The Gram Panchayat Development Plans (GDPD) initiated after the historical recommendation of the Fourteenth Finance Commission paves the way for the Panchayats to link planning with the SDGs thus achieving the developmental goals of rural areas.
5. **Localisation of SDGs**, the Ministry of Panchayati Raj (MoPR) has prepared a 'Draft Vision Document for Achieving SDGs'. It has mapped roles of Panchayats in terms of SDGs and centrally sponsored schemes (CSS).

Debate in constituent assembly

- **Ambedkar was critical of Panchayati Raj.** He considered Indian villages as the '**den of ignorance**', where caste system is most entrenched so the rule of Panchayat can result into the oppression of the lower caste.
- **Similarly, Pandit Nehru**, a modernist coming from urban background had limited faith in the ability of masses. Preferred bureaucracy led developmental model rather than people led model.

Strategies of rural development after Independence

Gandhian approach was rejected as traditional, utopian, based on the '**nostalgic view**' of Indian villages.

- **Thus India adopted the idea of community development programme – 1952**
 - The approach was, **bureaucracy led developmental administration.** According to Pt. Nehru, 'bureaucracy is the most modernized section of the society it will play the role of Vanguard (friend, philosopher and guide) in India's social revolution.'
 - **Civil servants** - vanguards of India's silent revolution.
 - **Block Development officer** - Friend, Philosopher & guide to the common man.
- **Achievement of community development program.**
 - It was a massive failure
 - If any achievement, it contributed to the development of administrative infrastructure in country. Country was divided into developmental blocks. Group of villages were placed into blocks. Block was headed by Block Development Officer. He was assisted by Village level workers in his task. His task was to inform the villagers about governments plans, programs.
 - Provide them with all sort of support.
 - Distribute seeds, implements etc.
 - Motivate them to be a contributor in first Five Year Plan.
 - **Why bureaucracy failed?**
 - At the time of independence bureaucracy was trained only in maintaining law and order, they had not exposure in the developmental role.
 - Since colonial times, corruption had become the culture of bureaucracy.
 - Bureaucracy had the colonial mind-set. Bureaucracy has been 'steel frame' of the Raj, the class of organic intellectuals; hence they were not suitable for the task.

Balwant Rai Mehta Committee 1957 to review the community development programme

- **Planning Commission appointed the committee** to review the Community Development Program. Committee concluded that **community development takes place only when community participates in development.**
- It recommended the institution of people's representatives at the village level. It recommended three tiers Panchayati Raj.
- **People were not able to communicate with the bureaucracy**, nor had bureaucracy shown the leadership. Hence these representatives will act as a link.

Stages in the evolution of Panchayati Raj

1. 1st phase: 1959-1964 = phase of enthusiasm and ascendancy
2. 2nd Phase: 1970-1980 = phase of stagnation and decline
3. 4th phase: 1984-1992 = phase of revival.
4. 5th phase: 1992-2012 = phase of disillusionment

1. 1959-1964 = Phase of Enthusiasm and ascendancy

- On 2nd October 1959 Pandit Nehru inaugurated Panchayati Raj at Nagore district in Rajasthan after which almost all states introduced Panchayats.

2. 1970s-80s – Phase of stagnation and decline

- Once Panchayats were constituted, there were no regular elections. If Panchayat was dissolved, it remained dissolved.
- However, there have been some exceptions. e.g. They had some meaningful existence in Kerala, West Bengal, Karnataka, Maharashtra. In states like Maharashtra Panchayats did survive but controlled by the dominant castes.

- **Causes of failure**

- **Centralising tendencies of the Union Govt.** - Panchayati Raj was state subject. state had no power how can they transfer
- **State themselves are glorified municipalities.**
- **State leadership.**
- **Bureaucracy** no incentive to make it success full.
- **Lack of political will**
- **failure of land reforms- domination of dominant caste**(elites) in villages.
- **Lack of effective devolution**
- **Lack of training and capacity building**
- lack of sufficient interest by **civil society**
- **Attention was on external security** than the internal governance reform because India was involved in the war on border.

- **Ashok Mehta committee 1977**

- Janata Party appointed Ashok Mehta committee in 1977. Ashok Mehta Committee has done the exhaustive work on Panchayati Raj experiments in India.
- It has given a voluminous report for reform of the system but unfortunately its report has not been tabled in the parliament till date.
- Ashok Mehta committee highlighted the '**conspiracy against Panchayats**'. It mentioned that Panchayats have not failed, they are made to fail.

- **What was the conspiracy**

- **Bureaucracy-** Different studies starting from Balwant Rai Mehta committee show bureaucracy as the main conspirator. The reason is – there will be the shift of power and resources from the hands of bureaucracy to the people. The biggest reason for failure of Panchayati Raj is the lack of cooperation from bureaucracy towards Panchayati Raj representatives.
- **State government** - As mentioned earlier, states themselves are 'glorified municipalities.' If strong Panchayats will come into existence, state government will lose relevance. State leadership was fearful that Panchayats will give rise to a new grassroots leadership, they will challenge the hegemony of the existing elites.

3. 1984-1992s – Phase of Revival.

- **LM Singhvi Committee-1986 –**

- Recommended providing more financial resources and constitutional status to the Panchayats to strengthen them.

- **Efforts to give the constitutional status to the Panchayati Raj**

- **Rajiv Gandhi government brought the revolutionary bills** to introduce strong Panchayats and Municipalities.
- **However, these bills could not be passed in Rajya Sabha** as states felt that the strong Panchayats will result into bypassing the state governments in India.
- **The bills were not passed due to**
 - Trust Deficit between Centre and states.
 - Seen as an attempt to marginalise states.
- **73rd and 74th amendment act 1992** - After failure of the Rajiv Gandhi government to give the constitutional status to the panchayats. It was during the Prime Ministership of P.V. Narasimha Rao that a comprehensive amendment was introduced in the form of the Constitution 72nd Amendment Bill in September 1991 which resulted into **73rd and 74th amendment act 1992** to the Indian Constitution brought in a Local Government system as the third tier of governance with focus on economic development and social justice.

What was the main factor behind govt. introducing 73rd AA?

- It was external agencies who were playing the major role in introduction of Panchayati raj in India.
 - **Structural adjustment programmers post 1991 crisis**- International communities compelled govt. through **Structural Adjustment Programs** they imposed conditionalities like the introduction of good governance.
 - India's **commitments at the 'Earth Summit' in 1992**. The Agenda 21 adopted at Earth Summit recognized **community participation** is a precondition to achieve any sustainable development objectives.
- 4. 1992 onward – Phase of disillusionment**
 - But India's most promised decentralization process is **about to complete its 3 decades**, despite three decades of its initiation, **there has been less than satisfactory results in strengthening of the functioning and delivery capacities** of these institutions and the vision of democratic decentralization "Maximum democracy and maximum devolution" still remains elusive words even after 3 decades of its arrival.

Assessment of working of Panchayati raj in India

73rd CAA is called as the **half-baked cake** and **half-hearted attempt** because there was **no internal will** from the people. 73rd amendment was called a **compromise document** there was opposition from the state government they thought that union government is trying to bypass the states.

- **Manishankar Iyer committee** was organized to assess the working of Panchayats in India.
 - It came to the conclusion **that Bad Panchayati Raj has been worse than no Panchayati raj.**
 - It would have been better if government had not introduced Panchayati raj at all.
 - At least people would not have questioned the idea of decentralization.
 - According to committee what we have achieved is nothing
 - **Decentralization corruption**
 - Commission mentioned that disillusionment is prevailing with Panchayats.
 - **Nexus has developed** between member of Panchayats chairperson, local bureaucracy, and politicians.

Analysis of specific provisions of the acts

The act contains 2 types of provisions

- **Compulsory provisions**- Primarily it deals with institutional structure for the Panchayati Raj -

- **Voluntary provisions-** Empowering provisions on which states have objections were turned into the voluntary provision that is why the act has been called as a **compromise document**.

Constitutional articles and provisions related to panchayats

Part-IX- Art-243 To 243-O deals with The Panchayats

Articles

1. **Article-243** contains definitions of the various keywords like districts, Gram Sabha, Intermediate level and Panchayat area etc.
2. **Article-243 A. Gram Sabha.** - A Gram Sabha may exercise such powers and perform such functions at the village level as the Legislature of a State may, by law, provide.
3. **Article-243B. Constitution of Panchayats.** - (1) There shall be constituted in every State, Panchayats at the village, intermediate and district levels in accordance with the provisions of this Part.
4. **Article-243C. Composition of Panchayats.** - (1) Subject to the provisions of this Part, the Legislature of a State may, by law, make provisions with respect to the composition of Panchayats:
5. **Article-243D. Reservation of seats**
6. **243-I.** Constitution of **Finance Commission** to review financial position.
7. **243K. Elections to the Panchayats** – superintendence, direction and control shall be vested in a **State Election Commission** consisting of a **State Election Commissioner** to be appointed by the Governor.
8. **Article-243-O. Bar to interference by courts in electoral matters.**

A. Analysis of compulsory provisions

1. **Article-243 A. Gram Sabha.** - A Gram Sabha may exercise such powers and perform such functions at the village level as the Legislature of a State may, by law, provide.
 - a. **Problems** –
 - i. **Gram Sabha has been the soul of the experiment** but it continues to be the weak institution there has been **lack of empowerment of people at grassroots level**. Manishankar Iyer committee held that
 1. In some states like MP (Gram Swaraj Experiment) Gram Sabha has lot of powers but in many states it lacks power.
 2. Only one meeting in a year takes place.
 3. Bogus meetings take place.
 - ii. **Solutions**
 - i. Like PESA Act (Panchayats Extension in Scheduled Areas), 73rd AA should also clearly mark the functions of Gram Sabha.
 - ii. **Capacity building of people** at grassroots level is key to success of Panchayati raj.
2. **Article-243B. Constitution of Panchayats** The act provides for **three tier model** with the exception granted to the states with less than 20 Lack populations.
 - a. **Advantages**
 - i. All states have to have similar structure because it becomes convenient for policy making institutions like finance commission to determine what schemes and what amount of funds to be devolved at what level.

b. Weakness

- i. Though uniformity is the objective, yet the act does not specify which level of Panchayat will perform what functions. Different states adopt different pattern. Hence the purpose is defeated.

c. Way forward

- i. **Punchhi commission and 2nd ARC** suggested 'activity mapping' following 'subsidiarity' principle.
- ii. **Subsidiarity principle.** It is considered as the fundamental principle of good governance. According to the principle, what can be done at local level should not be done at state level, what can be done at state level should not be done at central level. Unfortunately, the subsidiarity principle has been ignored in Indian context.]

3. Article-243D. Reservation of seats. Reservation for weaker section**a. Problems**

- i. **Constituency reserved only for one term.**
- ii. Reservation for **women not in proportion to population**
- iii. Somewhere upper caste not allows lower caste to participate in meeting and contest election.
 1. In three sensitive panchayats in Madurai — Pappapatti, Keeripatti and Nattarmangalam are infamous for not allowing SCs to contest the polls.
 2. Muthukanni, A Dalit Panchayat president from Tamil Nadu's Tirunelveli district had to Build Her Own Panchayat Office because she was not being allowed inside the panchayat office, of and prevented from hoisting the national flag or carrying out her duties.
- iv. Women members called only when some women issues.

b. Way forward

- i. Empowerment of the vulnerable sections is of course a necessity but it is a long term measure, in immediate context
 1. Make it mandatory that no resolution will be passed without the presence of the members of Dalit community and women representatives.
 2. Video recording of the meetings should be made necessary.

4. Provision of Institutional architecture

- a. Majority state appears to have fulfilled the compulsory provisions such as enactment of the State Panchayat Act; setting up of the State Finance Commission and the State Election Commission. But there is a need of capacity building and giving more says to these institutions in socio-economic development planning of the states.

5. Elections.

- a. Lack of regular elections was the major reason for the stagnation in the Panchayati Raj experiment earlier. If Panchayats were dissolved, they were kept in that state. There was a lack of regular elections.
- b. 73rd AA creates
 - i. State Election Commission.
 - ii. Mandatory regular elections
- c. **Weakness**
 - i. State Election Commission is not as autonomous as Election Commission of India. There is always a question mark on fairness of elections. Whether it is UP or West Bengal. It is suggested

to bring State Election Commission under Election Commission to make it more autonomous body.

- ii. The act does not specify the reasons for dissolution of Panchayats hence it entirely depends on state executives. Thus arbitrariness continues.

B. Analysis of voluntary provisions

Because of the **opposition from the state govt.** on various provisions of the act, the provision on which state had objections were turned into voluntary provisions.

It is to be noted that government publicized 73rd CAA as a huge step towards decentralization but the careful analysis shows that it is a step which is not more than devolution. The act creates the skeleton. It leaves on states to provide flesh and blood to it there has been **huge variation in experiments among state**

1. As per **Manishankar Iyer committee**, some states are progressing, at snail's pace, others leapfrogging.
 - For example - While some States like Kerala and West Bengal have devolved as many as 26 departments to Panchayats, several States have devolved only few functions, even as low as 3 functions.
2. **Finances**
 - **Problems**
 - Local governments can either raise their own revenue through local taxes or receive intergovernmental transfers. The 73th Amendment recognized both forms of public finance, but did not mandate either. **The power to tax, even for subjects falling within the purview of PRIs, has to be specifically authorized by the state legislature.**
 - Though the act mentions about auditing requirements, yet it does not tell about the specific institution.
 - **Economic Survey 2018** has highlighted that Local self-government in India suffer from "**low equilibrium trap**"
 - It has been observed that Panchayats received 95 per cent of their revenues from the devolved funds from the Centre/State while generating only 5 per cent from own resources. This is because some State Governments have not devolved enough taxation powers to the Panchayats
 - **Observation by 14th Finance Commission:**
 - Unfortunately state govt. does not implement the recommendations of the state finance commissions.
 - Even the reports of the SFCs are not tabled in the legislature
 - Lack autonomy.
 - Lack sufficient expertise.
 - **Solutions**
 - There is a need to streamline the terms of SFCs and FCs for better assessment and disbursements.
 - As pointed out by Manishankar Iyer committee, there is a huge corruption at the ground level. Like Kerala, there is a need to establish Panchayat ombudsman
3. **District planning**
 - Almost non-existent even after 25 years because
 - Bureaucracy not cooperative with the local representative and consider them inferior.
 - Representative lack capacity for the effective planning.

Other challenges which dwarfs the progress of Panchayati Raj

The progress of decentralization has been dwarfed by the numerous other systemic challenges and institutional bottlenecks.

1. **Expert Committee on Leveraging Panchayat Raj Institutions for more Efficient Delivery of Public Goods and Services**" revealed that except for the MGNREGA and the Backward Regions Grant Fund (BRGF), none of the over 150 centrally sponsored schemes had provided a role for the PRIs.
2. **Lack of capacity has come hard on the credibility of this very promising Institution**-States have not paid any serious attention to building the capacities of newly elected representatives many elected representatives remain totally dependent on officials to perform even rudimentary responsibilities. **This situation is more precarious in the case of PESA Act (Fifth Scheduled Areas).**
3. **There has been little progress in terms of bringing panchayats under the ambit of e-governance**-leveraging of new age technologies (ICT) can transform accountability, transparency and effectiveness of panchayats but over 2.4 lakh panchayats in the country, only about 50,000 of them have implanted e-Panchayat project.

Above analysis shows that 73rd AA remains half-hearted attempt. Panchayats continue to lack funds, functions and functionaries.

Mere constitutional creation of new political space would not become the answer to the growing demands for inclusion and participation. For substantive democracy to become a reality, the Centre and States need to show willingness to share powers in terms of fund functionaries and functions. At the time when local level governance proved to be most significant during the pandemic, one hopes to see a certain degree of urgency and seriousness from the leadership to walk the talk on devolution and decentralization as promised through 73rd amendment.

Major Factors responsible for failure of Panchayati raj

1. **Second Administrative Reforms Commission, 2008** blame the reluctance on the part of State Governments and higher bureaucracy to share powers with panchayat bodies in accordance with the principle of subsidiarity to the continued low momentum of decentralization process.
2. **Leadership at state level**
 - State themselves are called as glorified municipalities. If strong Panchayats will come into existence state government will lose relevance
 - State leadership was fearful that Panchayats will give rise to a new grassroots leadership which will challenge hegemony of existing elites.
3. **Bureaucracy**
 - They feared of shift of power and resources from the bureaucracy to people
 - Lack of cooperation from bureaucracy towards Panchayati Raj representatives.
4. The introduction of Act was **supply driven rather than demand driven**
 - There has **not been demand from the people for good governance** rather it was external imposition.
5. **Scholars like Amartya Sen cite the lack of public debate as major reason of failure**
 - He held that until and unless some issue becomes a matter of public discourse/debate, governments will not respond.
 - **Similarly, Habermas** suggested the need for public sphere and communicative action.
6. Ultimately it is failure of the people specially the advanced section of the civil society

Suggestions by major commissions to improve the functioning of the Panchayati Raj in India**1. Punchhi Commission**

- **The commission has recommended to establish Legislative councils in all states** with representatives from the Urban local bodies and panchayats for more devolution of power.
- **Watchdog body** to review the working of self-governments
- **National commission for Panchayats or local self-body** can be created.
- **Parastatal (parallel agencies) agencies like DRDA** (district rural development agency) have to be abolished.
- Greater involvement of **civil society** is needed.

2. Sumit Bose Committee: -

- The Committee recommended that **a system of quality monitoring** should be put in place for all programmes being monitored by panchayats. Committee recommended that panchayats should be encouraged to use only transaction based software for:
 - carrying out their functions in delivering local services
 - **Maintaining databases related to local planning** and monitoring progress
 - Financial management including e-procurement.

3. Dr Venugopal Committee: -

- The Committee recommended that state governments should put a quorum in gram Sabha meetings for participation of panchayat representatives, including women.

4. 2nd Administrative reform commission suggested

- **Panchayat ombudsman for grievance redressal.**
- Size to be restructured to make them as a visible unit of self-govt.
- State govt. should expand the tax domain.
- Panchayat bonds for the better funding to the Panchayats
- **Abolishing MPLAD and MLALAD schemes.**
- Capacity building of panchayat representatives.
- **Introduction of E-governance.**

Along with these shortcoming there are some key achievements also

1. From being toothless bodies in the decades earlier the post-1993 panchayats not only have been vested with many functions ranging from civic welfare to preparation of plans and their expenditures, these self-governing units have also been provided with sizeable funds to look after their day-to-day affairs.
2. **Reservation policies for women Scheduled caste and scheduled tribes and OBC** have brought representatives from these sections to the democratic space. They are **successfully asserting their political rights and beginning to emerge as leaders breaking away from centuries of oppression and subjugation.**
3. **Scholars like Esther Duflo and Raghavendra Chattopadhyay** have analysed that districts with female sarpanch/Pradhan, significantly greater investments are made in drinking water, a priority public goods issue for women.

Thus the decentralization process has deepened democracy, political inclusion and participation among the most marginalized sections of the society and overall decentralization process has taken a strong root and looks 'irreversible' in India.

PESA act (Panchayat extension in scheduled areas)-1996

Highlighting the importance of the PESA Act, **B.D. Sharma, a former Commissioner for Scheduled Castes and Scheduled Tribes** wrote to the president that

- **The Provisions of PESA, appeared to come as a saviour** that is designed to erase the historical injustice done to the tribal community. It **engendered unprecedented fervour amongst the tribal**

people throughout the country. It was perceived as restoration of their **dignity and tradition of self-governance**, symbolized by 'Mava Nate Mava Raj' (Our Village Our Rule)."

Constitutional and legislative provision on PESA

- India's Panchayat (Extension to the Scheduled Areas) Act, 1996 is going to complete 25 years of its existence. The law was enacted to empower local communities in tribal areas.
- While the 73rd and the 74th Amendments to the Indian Constitution passed in 1992, the **tribal dominated areas listed under the fifth schedule of the Constitution were kept out of the purview of the Panchayati Raj Acts**. PESA, enacted in 1996, took local self-governance rules to the areas listed under the fifth schedule.

Important Features of the act include that every village shall have a Gram Sabha

1. To **protect** the traditions, beliefs and culture of the tribal communities.
2. To **resolve** local disputes.
3. To **manage** and protect **common properties based on their traditional systems of management and protection**.
4. To give **permission** in case of **land acquisition** by administration, to restore land to the tribal.
5. To control over **money-lending** to tribal and to have the rights over minor forest produce.
6. To have the control over **local markets** and melas as well as to have rights to control the distillation, prohibition and manufacture of liquor.
7. To give recommendations for grant of prospecting **license/mining lease for minor minerals** in the Scheduled Areas grant of concession for the exploitation of minor minerals by auction.

Problems with PESA

1. **Low level of awareness and education- Gram Sabha ineffective.**
2. State govts have **not appropriately decentralized fiscal and administrative powers**. Thus GS lack ability to levy and collect taxes, fees, etc.
3. **Recommendation of State finance commissions are not fully implemented.**
4. **Displacement of tribal remains an issue.**
5. **Circumvention of provisions by state govt.-** for e.g. some states upgraded rural Panchayat to urban Panchayat to bypass licensing clearance power for mining
6. **No time limit** to frame rules specified.
7. **No provision for appeal** against decision.

Assessment of working of the PESA

1. **In 2013, referring to the PESA, the Supreme Court of India**, in a landmark case, had asked the Odisha government to go to the gram Sabha to get permission for bauxite mining in Kalahandi district of Odisha and they decided against the mining on Niyamgiri hills which led to the cancellation of a huge project. The case is considered as a milestone.
2. But **Dayamani Barla, a known journalist and activist based in Jharkhand** says, "People living in fifth scheduled areas were excited as they thought that the new legislation will ensure their control over their resources, land, mines and minerals, minor forest produce etc. But their reality didn't change even after 25 years of this law."
3. **A study conducted by the Indian Institute of Public Administration (IIPA)** in six districts of three states – Jharkhand, Chhattisgarh and Odisha, highlights the poor implementation of the Act.

Panchayati raj and women empowerment

Empowerment means giving power to powerless and voice to voiceless in various dimensions like social, economic and cognitive.

73rd CAA introduced reservation for the women in Panchayats with the vision that political empowerment will be a means to achieve the other form of empowerment.

It was provided in the background that patriarchal structure was most entrenched at village level and it needs to be fought from the root level.

As per the **Women Link worldwide** "The passage of 73rd and 74th Amendments is a milestone in the Constitutional history of India, which brought remarkable changes in the local governing institutions by providing 1/3rd seats for women members as well as chairpersons (including SCs and STs) at all levels of Panchayats Raj Institutions.

Scholar's view on Panchayats and women empowerment

The scholars who were sceptic of the empowerment

- **Sudha Pai**- She held that reservation will not lead to true empowerment of women but it will give rise to so called "Pati Panchayats". She believed that there are lack of clarity w.r.t the role of women.
 - Sudha Pai cautioned, after brief study of three villages from Meerut district in Uttar Pradesh, that female literacy, independent voting rights and change in the status in the family and society are required for women to play active role in the village politics.

Those who have positive view

1. **Rohini Pandey**
 - Reservations for women have reduced prejudice against female leaders.
 - Enhanced respect for woman.
2. **Gabrielle Kruks Wisner**:
 - Reservation in Panchayat has been a key for women's social mobility.
3. Scholars like Esther **Duflo and Raghavendra Chattopadhyay**
 - Districts with female sarpanch/Pradhan -significantly greater investments are made in drinking water, a priority public goods issue for women.
4. **Study by Ministry of Panchayati Raj**
 - Study have concluded that overall the reservation of women in panchayati raj has Shown positive impact.
 - It has enhanced the confidence of women.

Positive role played by women in Panchayats

1. **Women and rural development** – There are various evidences that panchayat with women representative have made significant investment in Public infra leading to rural development.
 - **Arati Devi**: - Arati launched a campaign to revive traditional folk art in her village, and also ensured that the benefits of the various government schemes reach the people who need it most.
 - **Chhavi Rajawat**:- Often hailed as the **changing face of rural Rajasthan**, Chhavi also addressed delegates at the UN's 11th Info poverty World Conference in 2011
2. **Greater role in sexual and reproductive rights** – women have now more confidence and empowerment and they are taking decisions with regard to sexual and re-productive rights.
3. **Increased role of women in decision making**- The participation of women as elected as well as nonelected members are rising due to reservation for women.

4. **Increased confidence and decreased domestic violence** - Domestic violence has substantially declined due to women Pradhan or surpanch. These women representatives pro-actively take up such violence. The victims also feel free to share their grievances to women representatives.
5. **Women have become the agent of social revolution**- Women are acting as an agent of change in the society and raising voice against injustice and atrocities.
 - **Sushma Bhadu, Haryana**- she ensured that women and girls get the education and therefore she arranged for a training centre in the village and ensured that every girl child goes to school.
 - **Radha Devi** – worked for education because dropped out of school when she was in Class 5. But she has ensured a fall in the dropout rate in the three institutions under the panchayat, and increased enrolment as well as the literacy rate of Rajasthan
6. **More participation of women is example of the more participatory and inclusive democracy.**
7. **Some other examples**
 - **Fatima Bi** Surpanch in Andhra Pradesh, received ‘Race Against Poverty Award’ in UNGA. She worked for the Economic empowerment of women Her Contribution was recognised by UNDP.

Why the reservation has not been much effective as expected

1. **Patriarchal structure which never see women in roles of authority**- The Society, which is controlled and dominated by patriarchal values, recognizing the legitimacy of male domination over social resources, means of production, land and labour etc., turns the gender relation into a scenario of domination and subordination.
 - **Muktaben Patel**, a backward caste woman from Gujarat(Gram Panchayat Hadara) who became sarpanch had to face several no-confidence motions against her by a higher caste.
2. **Double burdening of women** – Women who have got elected has not been relieved of the domestic and household work so they have been facing the double burden of work.
3. **Issue with reservation system**
 - **Policy of reservation for only one term**
 - **Reservation not in proportion to the population.**
4. **Lack of education and capacity** – Women in rural areas have low literacy rate and less expertise for effective governance.

Urban governance

What is Urban governance

- Urban governance is concerned with the processes through which government is organized and delivered in urban areas and making decisions on how to plan, finance and manage urban areas. It involves a continuous process of negotiation and contestation over the allocation of social and material resources and political power. It is, therefore, profoundly political, influenced by the creation and operation of political institutions, government capacity to make and implement decisions and the extent to which these decisions recognise and respond to the interests of the people.

Historical background of Urban governance in India

1. Historically India has been known for excellence in urban administration. **Indus valley civilization** can be called as one of the first and highly advanced urban civilization. Urban centres have been the source of wealth in India, playing the role of trading centres. **The age of Mahajanpads**,

Mauryans, Vijayanagara, is known for its achievements in urbanization. At present, while cities and towns occupy only 2% of total land accommodating 33 percent of the population. Urban centres have been recognized as engines of economic growth.

2. Urban administration has been the most neglected area. Britishers tried to introduce some reforms. However, after independence, there was hardly any attention towards municipal governance. At least Panchayats were mentioned in DPSP (Art. 40), municipalities were even missing.
3. It was only after the **74th constitutional amendment act** that cities got the special attention which mandated the **setting up and devolution of powers to Urban local bodies (ULBs)**

Significance of urban governance reforms

1. According to **MacKinsey report** on **India's urban awakening** cities could generate **70 percent of net new jobs created** to 2030 produce more than **70 percent of GDP** and drive **nearly fourfold increase in capita Income across the nation which shows the importance of revival of effective urban governance.**
2. **NITI Aayog**
 - Global experience suggests cities are central to economic growth.
 - City governance is key enabler of urban transformation job creation and sustainable growth.
3. Mac Kinsey report has highlighted that Unlike many countries that are grappling with the aging population and rising dependency ratios, India has a young and dynamic population a potential demographic dividend. But India needs thriving cities if that dividend is to pay out.
4. **According to Isher Judge Ahluwalia, there cannot be smart city without smart municipality.**
 - 'we fail to even imagine the amount of loss we are incurring because of neglect of urban administration.'
5. India is passing through the **phase of demographic transition**. 1/3rd of the population is living in urban areas. India aspires to become major power. It requires faster economic growth. Faster economic growth will require revamping of Indian cities.
6. **Cities will be central to India's economic future** - In fact the urban economy will provide 85 percent of total tax revenue which will finance development nationwide.
7. **Cities will also be critical for Inclusive growth**- Cities have benefits beyond their own boundaries. With improved access to jobs, market and the urban infrastructure, Rural populations adjoining large urban centres will result into inclusive growth

Constitutional provisions related to Urban governance

Seventy Forth Amendment) Act, 1992 has introduced a new **Part IXA** in the Constitution, which deals with Municipalities in an article **243 P to 243 ZG**.

- **Article 243P**- various keywords like metropolitan area, Municipal area etc.
- **Article 243Q** provides for establishment of 3 kinds of Municipalities of every state.
 - Nagar Panchayat-
 - Municipal Council
 - Municipal Corporation
- **Article 243R**- The manner of election of Chairpersons of municipalities has been left to be specified by the State Legislature.
- **Article 243S**- deals with the ward committee
- **Article 243 W** - All municipalities would be empowered with such powers and responsibilities as may be necessary to enable them to function as effective institutions of self-government.

- An illustrative list of functions that may be entrusted to the municipalities has been incorporated as the Twelfth Schedule of the Constitution. This schedule defines 18 new tasks in the functional domain of the Urban Local Bodies
- **Article 243Y** Deals with the finance commission and makes provision that the Finance Commission constituted under Part IX for Panchayats shall also review the financial position of the municipalities and will make recommendations to the Governor.
- **Article - 243 Z**, the maintenance of the accounts of the municipalities and other audit shall be done in accordance with the provisions in the State law

Issues with Urban governance reform

1. There are **three fundamental roadblocks**
 - A federal system which does not empower the 3rd tier.
 - Political system – heavily biased towards rural areas
 - Lack of adequate institutional framework for metropolitan planning and governance.
2. **Existence of parallel agencies**
 - Urban administration is more chaotic because of existence of parallel agencies with overlapping jurisdictions.
 - Municipal corporations are denied of their political role by continued operations by various parastatal agencies created by state govt.
 - These agencies, having certain autonomy are accountable only to state govts. and not local govt.
3. **Lack of uniformity in the institutions and model of governance**
 - There are various form and model of urban governances they vary from municipalities, Nagarpanchayats, Nagarpalikas, Municipal corporations, Notified area committee, court authorities to cantonment boards.
4. **Creation of special purpose vehicles** - Central govt. programs such as **'Smart City' program** seek to ring fence itself from local govts. This program mandates creation of **SPVs (Special Purpose Vehicles)** for smart cities which will have **'operational independence and autonomy** in decision making and mission implementation'.
 - It further encourages state govt. to delegate powers available to ULB (Urban Local Body) to Chief Executive Officer of SPV.
5. **Lack of financial Independence**- Not enough independence has been given in financial matter to municipalities
 - For e.g. Even for certain functions which are in its purview like levying taxes or civil projects above certain budget – ULBs need permission from State govt.
6. **Democratic decentralisation in case of municipalities are not participative and Inclusive**- Municipalities also suffer from similar weaknesses like Panchayats. Municipalities are more backward in the sense that there is no institution of direct democracy that is Mohalls Sabha at par with Gram Sabha, is existing.
7. **Lack of political will** - There has been the neglect of urban administration because Lok Sabha is dominated by rural constituencies. Urban areas are sources for generating funds, hence there is greater reluctance among politicians and state government to devolve power to municipalities.
8. **Mac Kinsey report has pointed towards following constraint.**
 - Absence of modern special planning framework (LAND titling)
 - Lack of human resource capabilities
 - Poor municipal finance
 - Narrow inflexible non buoyant tax base
 - Inability to recover the cost of service

- Present of parastatal agencies like urban development agency, special purpose vehicle.

Suggestions to improve the urban governance

1. **MacKinsey report on India's urban awakening have suggested the following things**

- Urban reform **needs political will, Vocal citizens and the active participation from the private sector**. India is in a state of deep inertia about urgency and scale of urban reforms.
- India's urban model should focus on four elements
 - **Funding** –Sufficient resources for investment to build service for citizens.
 - **Governance** –The most successful governance is a **development model that empowers local leaders but holds them accountable**.
 - **Planning** – Effective and systematic urban planning has been part of the fabric of successful cities for decades.
 - **Sectoral policies** –Great cities invest effort in designing policies for the most important sector that influence the city's economy and quality of life.

2. **Isher Judge Ahluwalia** in his article – “**Do cities matter**” have suggested following solution to make the city governance better.

- To achieve the goal of 5 trillion economies India has to sustain 8% rate of growth it cannot be achieved without structural transformation in urban administration.
- The present govt. has stronger mandate to fix up the problem of cities –government should enable and support state govt. for devolution of power.
- So far 3rd tier is kept out of GST -15th finance commission should correct it.
- Co-operative federalism in India should not stop at state level.

3. **15th finance commission on Urban Finance**

- The 15th Finance commission has taken bold, imaginative and far-sighted measures.
 - **Substantive increase in funds to cities** – Rs. 1.55 lakh crore over a five –year period from 2021-2026, 78 percent increase over grants during the 14th FC period.
 - 15th Finance commission has recommended “**performance-based grants**” for incubation of new cities and health grants to local governments.
 - In grants for Urban local bodies, basic grants are proposed only for cities/towns having a population of less than a million.
 - For Million-Plus cities, 100% of the grants are **performance-linked** through the Million-Plus Cities Challenge Fund (MCF).
 - MCF amount is linked to the performance of these cities in improving their air quality and meeting the service level benchmarks for urban drinking water supply, sanitation and solid waste management.
 - Deadline of march 2024 set for states to strengthen state finance commission and table action taken reports in state legislature.

4. **As per NITI Aayog 'strategy for New India @75'**

- It acknowledges that cities are central to raise productivity, enhance job creation and improve public finance. It also acknowledges that city governance is a key enabler to achieve economic development.
- Indian ULB's have huge scope to improve their financial autonomy and capacity to raise resources. Ultimately in a democracy, higher level of funding and greater transparency would need to be complemented by greater civic engagement and demand for accountability.

5. Suggestion by Economic survey 2018

- It mentions that local self –institutions depend on devolved funds and it suggests that
 - State govt. is to be encouraged to transfer functions under the 12th schedule to urban local bodies.
 - Preparation of a road map to make municipalities financially self-sufficient.
 - Enhance citizen participation through open cities framework. –it means use of digital technology for reporting and feedback.
 - Use of the alternative model of finance like –Municipal Bonds.

Grassroot movements

A grassroots movement is an organized effort undertaken by groups of individuals to bring about changes in social policy or influence an outcome, often of a political issue. By harnessing spontaneous support at local levels to bring about policy changes at local, regional, national, or international levels, grassroots movements are considered bottom-up, rather than top-down efforts.

According to DL Seth –Grassroots movements or micro movements have become active in different parts of the country since 70s.

- They represent the desperate struggle of economically marginalized and socially excluded sections of the society.
- **The long term aim** of the movements is **democratizing development and transforming the society.**
- They are even entering into the direct confrontation with organisations representing global political and economic power.
- Many micro movements have combined together to form national level alliance to fight against Indian state on the issues of globalization.

Evolution and rise of grassroots movement.

1. **Rajni Kothari** has analysed the evolution of much movements

- Rajni Kothari mentions the rise of micro movements is a symbol of the dissatisfaction with representational politics and institutional decline.
- There is a decline of parliament and disconnect between people and their representatives.
- He also mentions that **political parties have given up the ‘movement’** aspect of their activities have increasingly become electoral machines **operating at grassroots levels only at time of election.**
- **Trade unions, remain junior wings of political parties** therefore new activist groups emerged championing the cause of worker’s in legislature too reflected the decline in wider politics. Thus micro movements led by educated middle class have emerged in India took the empty space.
 - One of the most effective campaign has been for **“Right to information” and “Lokpal”**. **National alliance for people’s movements “NAPM”**, a broad based alliance of people’s movement launching, supporting, coordinating several campaigns.
 - **Recent farmer’s movements against the repealed farm law** also has been considered as a major milestone for the grassroots democracy and movement.

2. **Amrita Basu** in her “Grassroot movements and the state explores the origin of the Grassroot movements in capitalist development

- The growth of grassroots movements in India is because of capitalist model of development on one hand and the availability of democratic space on the other hand.
3. **Smitu Kothari** has analysed that
- **Globalisation has revived** the grassroots movements around the world in a big way, because of destructive forces of development.
 - There are rise of grassroots movement for peace, human rights and against corruption.

Successful aspect of the grassroots movements

Pranitha Mohanty in his article “**Contesting development, reinventing democracy grassroots social movements in India**” suggested five tasks performed by these movements.


- Replaced the exclusionary narrative of state led development with counter narrative of inclusion.
- Expanded non-party political spaces for social actions.
- Public space is constantly democratized.
- Renegotiating people’s relationship with the state.
- Site of the reconstruction of modernity through the discourse of citizenship and rights.

Conclusion:


Social movements that originate in the grassroots of society often contain the **potential to shape history**. Today, grassroots movements work to influence broader social issues such as racial injustice, reproductive rights, climate change, income inequality, corruption, anti-globalisation etc. and working for the interest’s vulnerable sections. Various Grassroot movements have already reshaped politics and society. and given voice to the interests of the poor and neglected in the form of a variety of labour, farmer, populist, religious, temperance, and anti –corruption movements.

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Statutory Institutions/Commissions

Syllabus - Statutory Institutions/Commissions: Election Commission, Comptroller and Auditor General, Finance Commission, Union Public Service Commission, National Commission for Scheduled Castes, National Commission for scheduled Tribes, National Commission for Women; National Human Rights Commission, National Commission for Minorities, National Backward Classes Commission.

Previous year questions

2021	The success of electoral democracy can partly be attributed to the status and role of the election commission of India. Explain.
2020	Examine the role and functioning of the election commission of India and the Comptroller and Auditor general in the last 2 decades.
2019	Comptroller and Auditor-General of India enhances the accountability of the Government and serves as the watchdog of the finances of the Government. Explain.
2019	Discuss, in brief, the role of the National Commission for women. Do you think it is a toothless organization?'
2017	Comment on: State subvention/funding may be an effective instrument of strengthening electoral democracy in India.
2017	Examine the role of the National Commission for Minorities in preserving, promoting and protecting the rights of minorities in India.
2016	Examine the objective and role of the National Human Rights Commission.
2016	Critically examine the provisions made in the Constitution for the protection of Environment.
2015	Comment on: Structure and Function of NITI Aayog.
2014	Comment on: The role of the Comptroller and Auditor General of India in promoting good governance.
2014	Discuss the working of the National Commission for Scheduled Castes to curb violence against Dalits.
2012	Comment on: Role of National Commission for Women in India.

Statutory Institutions/Commissions

Election Commission

The Election Commission is a permanent and an independent body established by the Constitution of India directly to ensure free and fair elections in the country.

From **Article 324 to 329 of the Indian Constitution**, the Election Commission is responsible for overseeing and conducting periodical elections at the national and state levels. To carry out these responsibilities, the electoral commission must be a powerful and independent body.

Article 324 of the Constitution provides that the power of superintendence, direction and control of

elections to parliament, state legislatures, the office of president of India and the office of vice-president of India shall be vested in the election commission.

Thus, the Election Commission is an all-India body in the sense that it is common to both the Central government and the state governments.

India is the first country to give the constitutional status to the election commission. India is the most successful of all the 3rd world democracies in the world. The success of the democracy goes to the election commission.

Structure

1. The commission was created in 1950, with only a Chief Election Commissioner at the time. On the eve of the 1989 General Election, two new Commissioners were appointed to the commission for the first time on October 16, 1989. However, their service was brief, expiring on January 1, 1990. On January 1, 1990, the "**Election Commissioner Amendment Act, 1989**" was passed, transforming the commission into a multi-member body. Since then, a three-member commission has been in existence, with decisions decided by a majority vote.
2. **Article 324** of the Constitution gives the Election Commission "superintendence, direction, and control of elections," with the Chief Election Commissioner and "such number of additional Election Commissioners, if any, as the President may from time to time fix.
3. According to the **Chief Election Commissioner and other Election Commissioners (Conditions of Service) Rules, 1992**, the Chief Election Commissioner and the two Election Commissioners get salaries and allowances on par with those of Judges of the Supreme Court of India.

Removal from office

1. The Chief Election Commissioner of India can be removed from their office similar to the removal of a judge of the Supreme Court of India which requires a resolution passed by the Parliament of India and a two-thirds majority in both the Lok Sabha and the Rajya Sabha on the grounds of proved misbehavior or incapacity.
2. Other Election Commissioners can be removed by the President of India on the recommendation of the Chief Election Commissioner. A Chief Election Commissioner has never been impeached in India.

Functions of the commission

1. Elections at regular intervals are one of the most essential elements of India's democratic strategy. Elections that are held on a regular basis, are free and fair, and are a part of the Constitution's core structure. The Election Commission is recognized as the **country's election watchdog**.
2. It **publishes a Model Code of Conduct** for political parties and candidates to follow in order to hold free and fair elections. The commission first released the Code of Conduct in 1971 for the 5th Lok Sabha elections, and it has since been updated several times.
3. **It establishes rules for political parties and candidates to follow throughout an election campaign.** However, there have been cases of numerous political parties breaking the rule, with complaints received about candidates abusing official machinery. The code does not have a legal basis, but it does have a compelling effect. It contains the electoral morality rules. The lack of formal support does not, however, prohibit the commission from enforcing it
4. **Registration of political parties** - In 1989, law governing the registration of political parties was established, and the commission received a number of applications. The registration helps to avoid misunderstandings and ensures that political parties fall under the commission's

jurisdiction.

5. **Regulating election expenditure** - It sets a restriction on how much money can be spent on polling. The commission is in responsibility of regularly updating the voter's list and preparing electoral rolls.

The appointment procedure of election commissioners-

- a. Currently, the executive appoints the chief election commissioner (CEC) and the two election commissioners (ECs) without consulting other political parties.
- b. Despite the fact that most ECs have been of exemplary integrity up to this point, a **bipartisan multimember committee** to nominate ECs is urgently needed. e.g. **According to the 2nd ARC** (Administrative Reforms Committee) report, the Prime Minister, the Leader of the Opposition in the Lok Sabha, the Speaker, the Deputy Chairman of the Rajya Sabha, and the Law Minister should create a committee. This would put any residual questions about the appointment's credibility to rest. In 2017, the Supreme Court (SC) ordered the government to examine enacting legislation on the subject.

Removal procedure

- c. There is a glaring gap between the stature of the CEC and the other two ECs in India's election commissioner's dismissal mechanism.
- d. The Supreme Court has previously stated that the CEC and the two other ECs have the same standing and that the CEC is simply first among equals in the argument against Navin Chawla's dismissal.
- e. As a result, the constitution must be changed to reflect the elimination of ECs in the same way that the CEC was removed.

Issues associated

1. Role of money power

- a. The dimension of the money involved in Indian election is just next to US election (around ₹ 60000cr according to CMS study). It destroys the level field among citizens. It has become a root for criminal money to enter into political system. It strengthens the nexus b/w politicians and criminals.
- b. The ADR report on most recent General Elections of 2019 saw that the average assets of MPs and MLAs was 7.05 crores, that of runners-up was Rs.6.32 crores and those securing third position was Rs.1.24 crores – clearly showing that wealthier candidates have greater chances of winning elections.
- c. Election Commission of India (ECI) made the **largest seizure of cash, liquor, precious metals, etc.** in the history of Indian elections during 2019 Loksabha elections – with a total worth of 3,475 crores.
- d. The high cost of Indian elections has a **detrimental impact on the vitality of Indian democracy**, since it **raises the entry level barrier for new political entrants** to run for and win elections.
- e. If there are no restrictions on corporate funding of political parties, the likelihood of elite capture/corporate capture of the election process and the policies of ruling governments increases dramatically.
- f. **weaknesses of existing laws**
 - i. **Limits on expenditure are unrealistically low.** For LS elections for bigger state it is 70 lakhs and for smaller states 54 lakh. The limit for assembly states is 28 lakhs to 20 lakhs.

Earlier there were no limits on political parties but after SC judgement, expenditure done by political parties specifically for the candidates will be counted in candidate's limit.

- ii. Exemptions is given to political parties in 2 situations:
 - 1. Expenditure incurred for the promotion of general party program which doesn't specifically mentions the needs of candidates.
 - 2. Expenditure for promotion of candidate which is incurred for the purpose of travel expenditure of star campaigners.
- g. **Consequences**
 - i. This raises several **questions about the nature of elections and democracy**. Data has revealed a close nexus between crime and money in electoral processes, with undesirable consequences for all sectors – right from the candidates, the Governments, and the administration, to the general public at large.
 - ii. Those engaging in corrupt practices **pose a threat to good governance, and negatively impact the quality of governance**. Any candidate who spends lavishly in elections, after winning will focus on recouping his investment, or returning favors to those who funded him.
- h. **Way forward**
 - i. The need of the hour is a stringent implementation of restrictive provisions prescribed in law including disqualification of the contestants to curb the menace of money power in electoral politics.
 - ii. To give the **EC the power to punish the political parties** (including de-registration) who commit a major violation of their oath or indulge in willful disobedience of the lawful orders. For example, **non-submission of accounts and audit reports, not conducting internal party elections, persistent violation of the model code, etc.**

2. Funding issues

a. State funding of the Election

State funding of elections has been suggested in the past in response to the high cost of elections. A few government reports have looked at state funding of elections in the past, including:

- 1. **Indrajit Gupta** Committee on State Funding of Elections (1998)
- 2. **Law Commission** Report on Reform of the Electoral Laws (1999)
- 3. National Commission to Review the Working of the Constitution (**NCRWC**) (2001)
- 4. **Second Administrative Reforms Commission** (2008)
- ii. **Arguments in favor of the state funding of elections**
 - 1. It is believed that using state funds to achieve transparency and minimize corruption in the electoral process is the best way to go.
 - 2. **Fair elections**: Because the government distributes cash fairly among the parties, it creates a level playing field for new/growing parties on par with established parties, assuring fair elections.
 - 3. **Better Governance**: Candidates who are elected through a fair electoral process will provide governance that is transparent and responsible.
 - 4. **Eliminate criminal politicians**: Candidates engage in criminal actions primarily to raise large sums of money for election finance. There will be no need for criminal actions if elections do not require money from individuals.
 - 5. **Political equality**: government funding ensures that powerful groups or people do not have an undue influence over electoral procedures.
- iii. **Arguments against the state funding of elections**

1. Many critics of state sponsorship argue that a government coping with deficit budgets can't afford to give money to political parties to run for office. Notably, India only collects about 16 percent of GDP in taxes.
 2. **Misuse:** State money may encourage any group to enter politics solely to receive state subsidies rather than to win elections and carry out welfare initiatives.
 3. **Diversion of cash from social objectives:** Given how little the government spends on vital social areas like basic healthcare, the concept of the government giving money to political parties is disgusting.
 4. **Undisclosed funding:** Election funding from the government will not prevent political parties from lobbying for and receiving undisclosed extra funds from the private sector.
- iv. **Way forward**
1. All major committees recommended only **limited state assistance/partial state funding** due to the country's economic circumstances.
 2. State subsidies should only be granted to registered national and state parties and should be delivered in kind.
 3. A solid regulatory framework and accounting system should be put in place.

b. Electoral Bonds

- i. **Electoral Bonds**
- ii. Political finance has long served as the wellspring of corruption in India. To address these issues of a new political funding mechanism, known as electoral bonds, as a harbinger of a new era of transparency and accountability was **introduced in 2017 budget**.
 1. Electoral Bonds are issued in denominations of Rs. 1,000, Rs. 10,000, Rs. 1 lakh, Rs. 10 lakhs, and Rs. 1 crore, with no upper limit.
 2. The State Bank of India is authorized to issue and redeem these bonds, which have a fifteen-day validity period.
 3. These bonds can only be redeemed in a registered political party's authorized account.
 4. The bonds are available for purchase by any Indian citizen for ten days in each of the months of January, April, July, and October, or as the Central Government may specify.
 5. Individuals can purchase bonds either alone or collectively with other individuals.
- iii. **Benefits of the electoral Bonds**
 1. Limiting the effect of black money in the election process through reducing the power of anonymous financial donations.
 2. To safeguard contributors from political party persecution if they are shown to be favoring or supporting one party over the other.
 3. To make the electoral process more transparent.
 4. The electoral bonds are anonymous bearer bonds that may be used by a donor to make donations to a political party while maintaining the transaction's confidentiality and not exposing the donor's name. Given that such bonds may only be issued by certain banks; cash will play a smaller role in political party finance. It will **make the funding process transparent**.
- iv. **Issues with the electoral Bonds**
 1. **Funding anonymity.**
 - a. A big concern related to funding is the secrecy with which political parties are funded.

- i. According to the **ADR**, political parties have garnered more than 70% of their finances from anonymous sources during the last decade.
 - ii. Anonymity has a detrimental impact on democracy since the electorate's right to know about the funding of political parties and candidates is jeopardized.
 - iii. The Indian Supreme Court has long ruled that the "**right to know**," particularly in the context of elections, is an inherent aspect of the Indian Constitution's right to freedom of expression (Article 19).
2. **Against free and fair elections:** Electoral bonds convey no information to citizens.
 3. The said anonymity does not apply to the current administration, which may always obtain donor information by requesting it from the State Bank of India (SBI).
 4. This means that the ruling party can use this information to sabotage free and fair elections.
 5. **Crony Capitalism:** The electoral bonds system basically removes all pre-existing constraints on political donations, allowing well-resourced firms to fund campaigns, paving the path for crony capitalism.
- c. Lifting of the restrictions on donations by corporate parties**
- i. The government has **removed the cap of 7.5%** on corporate contributions to the political parties with the **Finance Act, 2017**. The same Act also **removed the obligation to report such contributions in the company's profit and loss account**.
 - ii. The relaxation of these restrictions on corporate donations has sparked fears of corporate meddling in the election process.
 - iii. **The Dinesh Goswami Committee** has previously recommended that corporate donation limitations be maintained.
 - iv. Corporate funding to political parties are likewise restricted in most European democracies and the United States.
 - v. Additionally, the requirement that a corporation be in operation for three years before making donations has been abolished — a mechanism designed to prevent shell companies from being formed only for the purpose of funnelling money into politics.
 - vi. The easing of the three-year and 7.5 percent limits, according to **Zoya Hasan** and others, might lead to the **development of sham firms used to funnel dark money into the election process**.
 - vii. **The FCRA (Foreign Contribution Regulation Act) 2010** was amended retrospectively in **2016 and 2018**, changing the definition of foreign contributors.
 1. Concerns have been raised regarding the rising influence of foreign contributors following the 2014 Delhi High Court decision on Vedanta Ltd. sponsorship of Indian political parties from 2004 onwards.
 2. The amendment now allow foreign corporations' Indian subsidiaries to legitimately support political parties in India without being classified as foreign entities.
 3. The lifting of prohibitions on foreign funding of Indian political parties might constitute a severe danger to state policy's economic sovereignty, which is likely to be influenced by foreign companies/sources in the future.
- 3. Muscle power and the criminalization of the Politics**
- i. Growing criminalization has been a constant theme of Indian politics. Nearly **43 percent of the newly-elected Lok Sabha members** have criminal charges against them, a **26%**

increase as compared to 2014, according to the **Association of Democratic Reforms (ADR)**.

- ii. **History** - It started with decline of congress system and pure power politics adopted by political parties. As competition became acute, politicians didn't want to leave any stone unturned.
- iii. **Vohra Committee** was setup to understand the nexus of politicians, bureaucrats and criminals. Reports of Vohra Committee haven't been put on the platform of parliament So far but it is very much clear that there is a strong nexus b/w criminals and politicians. Initially criminals were supporting politicians but they realized politicians coming to power by their support. It will be more adventurous if they themselves enter politics.
- iv. **Legal provisions**

Section 8 – 11 of the representation of the people act - **Disqualification section**

 1. **Section 8(1)**: Person convicted of crime where punishment is more than 2 years, then disqualified for 6 years from contesting elections.

Loopholes - Only those convicted will be disqualified.

 2. **Section 8(4)** - it made distinction b/w sitting MP and person who is just a candidate. **Sitting MP not to be disqualified with immediate effect.**
 3. He has 3 months in hand. Within 3 months, he has to appeal against judgement of trial courts.
 4. He can continue till final disposal of the appeal. It is to be noted that judicial process in India is extremely slow so basically this provision made disqualification for MP for his term almost impossible.
- v. **In 2013 in Lily Thomas Case**, SC has declared **section 8(4)** as **ultra vires to the Constitution**. Sec 8(4) of the act **which creates distinction between a sitting member and a proposed to be member of the house.**
 1. It was held by the Court that Constitution of India confer power on the **Parliament to make a single law** which lays down the disqualification for a person who is to be chosen as member of any house and also for a person who is a sitting member of any house.
- vi. **In Jan Chowkidara case (2013)** SC held that the person who is behind the bars and has been deprived from right to vote would also not be allowed to stand in elections. However, parliament has nullified the judgement by breaking law. Clarifying the status of voter is different from that of requirement of being elector.
- vii. Earlier there was no recognition of voter's right to information. It is because of judicial intervention on behalf of civil society (**Union of India vs ADR 2002**) voter's rights was recognized.
- viii. **Every candidate has to fill form 26** giving his criminal antecedents, educational qualifications and information about assets and liabilities.

b. Suggestion by election commission

- i. Considering extremely slow criminal justice system, it is suggested that in a situation when charges have been framed and accepted by competent court in such cases where punishment would be of 5 years and above in case of conviction, person should be disqualified from standing in the election till the final disposal of his appeal.
- ii. It is also suggested to establish **fast track courts** for such cases. Exception can be given for those cases where case filled within 6 months from date of notification of election.
- iii. It is also suggested that if person is found guilty by any commission of inquiry then also, he should not be allowed to stand in election.

4. Issue of Independent candidates

- a. NCRWC, Law commission and SC in Dharti Pakad Madan Lal Agarwal vs Rajiv Gandhi case, 1987 have suggested to stop independent candidates for following reasons.
- b. As per SC some contest just for the sake of contest.
- c. Unnecessary burden on EC in terms of management and logistical support for the election.
- d. Large no. of independent candidates create confusion.
- e. As per NCRWC, parties set up dummy candidates to confuse voters.
- f. It also promotes defections and bargaining
- g. Data shows that success rate of independent candidates is low: In 2014 LS elections, out of 3182 only 3 won the seat. Success rate is less than 0.53%.
- h. EC has suggested to increase the deposit in case of independent candidates. It has been suggested that only those independent candidates who have won local elections should be permitted.

However there is **significance** of independent candidates,

In an American Political Science Review paper, **Sacha Kapoor** of the University of Rotterdam and **Arvind Magesan** of the University of Calgary show that:

- **rise in the number of independents increases voter turnout.** To identify this effect, Kapoor and Magesan compare election data before and after, the Election Commission of India significantly increased the candidate deposit requirements (to control the large number of candidates contesting elections). They find that not only did the increase in deposits result in a drop in participation of independents, it also reduced voter turnout.
- they increase citizen knowledge about alternative policies and can facilitate the selection of representatives who are more responsive to their constituents.

5. Opinion Polls

- a. **Exit polls** are post-election surveys that try to elicit the opinions of the voters during or after the election period. **Opinion polls** are pre-election surveys that aim to elicit the views of the electorate during or after the election period.
- b. **Ban on the opinion polls**
 - i. After consulting with all political parties, the ECI put a prohibition on post-election polls in 1997 and again in 2004. Many of them were accused of being biased and conducted with the goal of supporting or disfavoring specific political organizations.
 - ii. However, in 2004, when the ECI sought to broaden the scope of the ban to include opinion polls.
 - iii. But it was argued that such a blanket ban breaches the freedom of press guaranteed by Art 19.
- c. Arguments in favor of the opinion polls
 - i. It is a **part of democratic process**. Hence, they should not be banned rather regulated. It is **based on the idea of deliberative democracy**. Democracy requires public reasoning. We need to know each other's viewpoint; our political preferences can't be made in isolation.
 - ii. Constitutionally also it may not be possible because it is a **part of freedom of Speech and expression** and freedom of press.
 - iii. Demands to ban opinion poll are based on the ground that they **distort the choices of voters**. However, there is no study so far that shows any meaningful impact of opinion polls on changing voter's preferences.

- iv. Opinion poll may be one of the factor or **determinant in voter's choice** but it is not the only factor and most important factor.

6. Right to recall

- a. The Right to Recall is an instrument believed to enhance accountability among elected representatives. It essentially allows the citizens to participate in the democratic voting process by exercising their franchise to seek re-election of the representative, even before the end of the tenure of the elected one.

b. **Advantages of the Right to Recall?**

- i. The right to recall is believed to check corruption and check the criminalization of politics.
- ii. It seeks to justify the idea that the Right to Elect a representative can necessarily entail de-electing the same.
- iii. Putting in place a system of de-electing the representatives in the long term is believed to infuse greater accountability among representatives.
- iv. The system of recall is expected to deter candidates from spending crores of money in campaigning for elections, owing to fear of recall.
- v. An option to correct the wrong, without waiting for the next five years.

c. **Disadvantages of the Right to Recall?**

- i. Right to recall can lead to 'excess of democracy' affecting the independence of representatives adversely due to the perpetual threat of getting recalled.
- ii. Virtually all elected representatives would be vulnerable, leading to unfortunate social and political consequences.
- iii. It may force the representative to succumb to the unhealthy, coercive, populist pressure, in order to avoid getting recalled.
- iv. It could inevitably discourage the representatives from using their own judgment and coming up with tough but unpopular stands rather than populist ones.
- v. The question of performing national and state duties by serving the larger interests, rising above the local electorate demands for the MPs and MLS would be challenging, may not fructify.
- vi. Some scholar's rejects this principle
 - 1. It makes representative vulnerable to constituency pressure and many ignore larger national interest.
 - 2. First we've to decide on the various questions like
 - a. grounds for recall, per cent of electors needed to sign petition.
 - b. Competent authority to decide whether procedure for recall to be initiated.
 - c. How many times will recall take place?
 - d. Whether we will deprive recalled candidate to stand in by elections.
 - e. How to ensure that voters who have not voted should not have say in recall.
 - 3. It is again unnecessary financial and administrative burden.
 - 4. In India, recall has been introduced for PRIs and Municipalities in MP, Chhattisgarh, Rajasthan and Maharashtra.
 - a. In Chhattisgarh, 2 political parties joined hands just to recall the candidates.
 - 5. It can be misused against dalit, minorities, women representative.
 - 6. Representatives will become vulnerable to majority preferences in a constituency and will overlook interest of minorities.

7. One question is whether recalled candidate will be given opportunity to be heard in accordance to principle of natural justice.

7. Paid News / fake news

- i. **Paid news** is defined by the Press Council of India as any news coverage by media organizations (print media) during the electoral period that has been paid for in cash or kind by vested interests.
- ii. Under the RPI Act, paid news is not considered electoral malpractice. However, the EC and the Law Commission have ruled it to be an electoral offence. Any candidate who attempts to publish paid news will be sentenced to two years in prison.
- iii. Paid news is a form of election fraud that attempts to excessively control voter behavior, thereby jeopardizing the political process' integrity. The Press Council of India (PCI) and the Election Commission of India (ECI) have both stated that this threat must be addressed. The election commission has recognized over 200 cases of paid news in the last decade.
- iv. Currently, the ECI appoints District Media Observers (DMO) in partnership with the PCI to report cases of paid news. Furthermore, throughout the election season, news media firms are supposed to carry a clear statement stating that none of the information has been paid for.

8. VVPAT

- i. **VVPAT** (Voter Verifiable Paper Audit Trail) is a way of providing feedback to voters using electronic voting machines (**EVMs**).
- ii. A VVPAT is an independent voting machine verification technology that allows voters to verify that their vote was cast correctly and audit the stored electronic results.
- iii. It includes the name of the candidate for whom the vote was cast as well as the party/individual candidate's symbol.
- iv. It works in the absence of any communication equipment, such as a frequency receiver or transmitter, no network, such as Bluetooth, RFs, WIFI, or the Internet, may be connected. Chips can only be programmed once.
- v. Candidate names are listed alphabetically rather than by party affiliation.
- vi. Booth capturing, rigging, and ballot stuffing have all been reduced as a result of their introduction.
- vii. In times of political mudslinging about EVM tempering, vvpac ensures that voters confidence remains intact.

9. Simultaneous Elections

- i. Simultaneous election aims to structure the Indian election cycle in such a way that elections to the Lok Sabha and State Assemblies are synchronized so that both elections can be held in the same time frame.
- ii. The ECI has been debating the notion of simultaneous elections since 1983. Many reports have backed it up, including the
 1. **Law Commission of India's 170th Report "Reform of Electoral Laws" (1999)**
 2. **Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice's 79th Report**, which recommended holding simultaneous elections for long-term good governance.

3. The importance of simultaneous elections that focused on heterogeneous needs of the nation was highlighted in a working paper titled "**Analysis of Simultaneous Elections: The What, Why, and How?**" by Niti Aayog.

b. Advantages

- i. Assist in keeping tabs on polling expenses, party expenses, and other expenditures, as well as saving public funds.
- ii. Reduce the administrative and security personnel' workloads.
- iii. Ensure that government programme are implemented on time, and that the administrative apparatus is focused on development rather than electioneering.
- iv. Solve the problem of government on the part of the ruling politicians. It is commonly observed that, in order to obtain short-term political advantage from a given assembly election, ruling politicians postpone making difficult long-term decisions that will benefit the country in the long run.
- v. Allow extra time for all players, including political parties, the Election Commission of India (ECI), paramilitary forces, and civilians, to prepare for the once-every-five-year elections.

c. Challenges of the simultaneous elections

- i. Given India's Parliamentary system's traditions and practices, synchronization is a significant issue. The government is accountable to the Lower House, and it is possible that the administration will fall before the end of its term, in which case an election has to be called.
- ii. It is tough to persuade and unite all political groups behind the notion.
- iii. Because the ECI must offer two sets of Electronic Voting Machines (EVMs) and Voter Verified Paper Audit Trails (VVPATs) for simultaneous elections, the demand for EVMs and VVPATs would quadruple (one for election to the Legislative Assembly and second for that to the Lok Sabha).
- iv. There will be an increased demand for polling officials as well as improved security procedures
- v. Implementation of the simultaneous election need various amendments
 1. The 1951 Representation of People Act would need to be changed to provide measures for both parliament and assembly' tenure stability.
 2. **Restructuring the ECI's powers and functions** to make the procedures for simultaneous elections go more smoothly.
 - a. **Section 2 of the RPA 1951** legislation could be amended to provide a definition of simultaneous election
- vi. **Frequent election makes representatives accountable to the people.** So simultaneous elections might lead to weakening the accountability of representatives to people
- vii. **Federal issues** –In simultaneous election the regional issues may be overpowered by the national issues at the time of election. Regional issues get highlighted during the state elections.

d. Concluding line

- i. It is suggested by Niti Aayog that a focused group of stakeholders comprising constitution and subject matter experts, think tanks, government officials and representatives of various political parties come together and work out appropriate implementation related details. This may include drafting appropriate constitution and statutory amendments, agreeing on a workable framework to facilitate transition to simultaneous

elections, developing a stakeholder communication plan etc.

Comptroller and Auditor General of India

Dr. Ambedkar in constituent assembly held that

Comptroller and auditor general office is the most important constitutional office as it the custodian of the Public purse.

Introduction

The Comptroller and Auditor General (CAG) of India is an authority, established by Article 148 of the Constitution of India, which audits all receipts and expenditure of the Government of India and the state governments, including those of bodies and authorities substantially financed by the government.

The CAG is also the external auditor of Government-owned corporations and conducts supplementary audit of government companies, i.e., any non-banking company in which Union Government has an equity share of at least 51 per cent or subsidiary companies of existing government companies.

Constitutional provision

1. **Article 148** broadly deals with the CAG appointment, oath and conditions of service.
2. **Article 149** deals with Duties and Powers of the Comptroller and Auditor-General of India.
3. **Article 150** says that the accounts of the Union and of the States shall be kept in such form as the President may, on the advice of the CAG, prescribe.
4. **Article 151** says that the reports of the Comptroller and Auditor-General of India relating to the accounts of the Union shall be submitted to the president, who shall cause them to be laid before each House of Parliament.
5. **Article 279**—Calculation of “net proceeds” is ascertained and certified by the Comptroller and Auditor-General of India, whose certificate is final

Role and function of CAG

The Comptroller and Auditor General (CAG) is a constitutional functionary, independent of Parliament/legislature and executives. The CAG is responsible for

1. Audit of Ministries and departments of Government of India and the State Governments.
2. Audit of Central and State Government Public Sector Undertakings and other autonomous bodies and authorities which are financed from Government funds.
3. Audit of receipts of Union or of States.
4. Audit of accounts stores and stock.
5. Audit of companies and corporations.

The Comptroller and Auditor General is also responsible for compilation of accounts of the State Government, authorization of pensionary benefits of selected categories of employees, maintenance of provident funds accounts of State Government employees of most State Governments.

Broad objectives of audit

The broad objectives of audit are to ensure legality, regularity, economy, efficiency and effectiveness of financial management and public administration mainly through assessment as to:

- whether the financial statements are properly prepared, are complete in all respects and are presented with adequate disclosures (**financial audit**);
- whether the provisions of the Constitution, the applicable laws, rules and regulations made thereunder and various orders and instructions issued by competent authority are being complied with (**compliance audit**); and
- The extent to which an activity, programme or organisation operates economically, efficiently and effectively (**performance audit**).

Success of CAG

CAG has played significant role over the years despite of the shortcoming and issues it has ensured the accountability and transparency in the public fund management.

Successful examples

1. **2G-spectrum scandal**- 2010-2011 report of the CAG highlighted the 2G spectrum issue. It alleged that the arbitrary and auction-less sale of 122 telecom licenses cost the Indian government Rs. 1.76 lakh crore (~\$31.3 billion USD).
2. **The 2010 Commonwealth Games**- In its report, CAG faulted the governance, planning, and financial management of the biggest sporting event India ever hosted. It cited corrupt deals, incompetent senior officers, disregard of procedures (and at times, the law), intentionally bloated budgets, security lapses, and other related issues.
3. **Question mark on programmes to strengthen Indian coast guards** - In August 2011, almost three years after the attacks, a CAG performance report criticized the ICG for its persistent inability to protect Indian coasts. The scathing report listed several structural as well as management flaws
4. **Highlighting inefficiencies of the civil aviation sector** - In a series of reports, CAG took aim at India's incompetent civil aviation sector. A performance audit noted that the "dismal state" of Air India (AI) is a result of chronic operational deficiencies, risky acquisitions, dependence of debt funding, and incompetent officials. CAG noted that acquisition processes for the new aircraft was flawed, opaque, and took way too long.

Issues faced and way forward for the CAG

1. **Issues related to appointment – Under article 148-151 – he is appointed by the president** on the advice of PM and council of ministers.
 - a. CAG appointment is in the **hands of executive** and has no role of legislatures in the process.
 - b. It creates the **conflict of interest** for the CAG. There are various examples where the favorable CAG has been appointed by the executive
 - i. For example, appointment of Shashi Kant Sharma as CAG has been questioned because of his past tenure in the defence ministry where he supervised defence procurements.
 - c. **Way forward for the appointment issue**
 - i. **The 2nd ARC** has suggested the need to establish a bipartisan commission which will be a multi-member body for the appointment of CAG. There should also be given the role to opposition.
 - ii. **Amitabh Mukhopadhyay** in his book – "**Rethinking public Institution in India**" has suggested that Public account committee must be consulted while appointing the CAG.
2. **Scope of CAG Audit** – At present the CAG performs the function of the compliance audit, Financial audit and the performance audit. **Performance audit mostly focus on 3 E's**
 - i. Efficiency

- ii. Effectiveness
 - iii. Economy of the government
 - b. **Issue with respect to performance audits**- The CAG face the challenge to handle the criticism on performance audit. Specially the report is critical of the government policies.
 - c. **Scope of audit of the private players** – There has been uproar over the authority of the CAG to audit the private sector and debate on who should be included and who should not be included.
3. **Quality of Audits** – The quality of the audits mostly come into question when the CAG submit the report having criticism of the government. Many a time CAG has to submit its report for the peer to peer review institution Like **INTOSAI** (Int. organization of supreme auditing institution) it found that half of the CAG reports could have been more balanced in context and findings.
- a. But despite these shortcomings the CAG reports as found by PAC to be valuable and reliable source of information to discharge their duties efficiently.
4. **Delay in tabling of the reports** – The reports of the CAG has been delayed by the government intentionally during the election time to avoid the major issues. But that result into the non – accountability of the executive.
- a. Way forward – **2nd ARC** has suggested to make the report time bound and the Public account committee has told that preferably it should be within a year.

Suggested reforms:

- Former **CAG Vinod Rai** in his book – “**Not just an accountant**” has suggested the following reforms to make the office of CAG more effective
 1. Bring all public-private partnerships (PPPs), Panchayati Raj Institutions, and government-sponsored societies within the CAG's jurisdiction.
 2. To keep up with developments in governance, the CAG Act of 1971 should be revised.
 3. A collegium-style procedure for selecting a new CAG, similar to how a Chief Vigilance Commissioner is chosen (CVC).
- **Ramaswamy Iyer**, a former member of the Indian Audit and Accounts Service, authored a opinion piece in The Hindu, a leading daily, delineating steps to improve CAG's effectiveness and strengthen it. Recommended reforms includes
 1. Creating a growing awareness of all CAG reports in the media and the public
 2. Attending to more CAG reports that are now collecting dust in the PAC
 3. Recharging the role of the auditor as a proactive financial and accounting detective in order to uncover scams and corruption rather than simply reporting on it after a scam has occurred at.
 4. Making full use of the constitutional and statutory provisions of CAG to convert into a truly powerful body.

Conclusion:

CAG has played a significant role as a 5th pillar of Indian democracy. However institutions should be reformed so that it can fulfill its constitutional obligations more effectively.

Finance commission

Introduction

The Finance Commission is a quasi-judicial authority established by **Article 280** of India's constitution. It is convened by the President every fifth year or sooner if he deems it essential.

Composition of the commission

President appoints a chairman and four additional members to the Finance Commission. As per the provisions contained in the **Finance Commission [Miscellaneous Provisions] Act, 1951 and The Finance Commission (Salaries & Allowances) Rules, 1951**, the Chairman of the Commission is selected from among persons who have had experience in public affairs, and the four other members are selected from among persons who:

1. are, or have been, or are qualified to be appointed as Judges of a High Court; or
2. have special knowledge of the finances and accounts of Government; or
3. have had wide experience in financial matters and in administration; or
4. have special knowledge of economics.

Functions of the finance commission

On the following issues, the Finance Commission is obligated to submit recommendations to the President of India.

1. The distribution of net tax profits to be divided between the Centre and the States, as well as the allotment of proportionate shares of such proceeds among the states. (Distribution vertically and horizontally)
2. The principles that should guide the Centre's grants-in-aid to states. (i.e. from India's consolidated fund.)
3. The actions required to replenish the state's consolidated fund in order to supplement the resources of the state's panchayats and municipalities, as recommended by the state finance commission.
4. Any other subject brought to it by the president for the sake of good financial management.

Need of the Finance commission

1. It serves as India's **fiscal federalism's balancing wheel**.
2. It helps in a more equitable division of tax money between the federal government and the states. The Indian federal system divides authorities and duties between the central government and the states.
 - a. The center collects the majority of tax income due to its size of economies and ease of collection of central taxes. However, the state is in charge of supplying public goods. This might result in states incurring expenditures that are greater than their revenue. As a result, there is a need of central taxes to be devolved to states, necessitating the formation of a finance commission to identify the essential principles for this devolution.
3. Due to regional differences, some states are unable to generate appropriate resources in comparison to others. Through its recommendations, the FC seeks to guarantee that all states have a feeling of equity in public service. Assuring that the devolution process evolves with the passage of time

Issues associated with the finance commission

1. **Finance commission vs. Planning commission (abolished now)** -The Indian Constitution envisions FC as the balancing wheel of fiscal federalism. The old Planning Commission, which was a non-constitutional and non-statutory body, reduced its role in financial interactions between the Centre and the States.
 - a. In fiscal federal transfers, **Dr. P V Rajmanna**, Chairman of the 4th FC, has emphasized the overlap of functions and responsibilities between the FC and the PC.
2. **Union has also requested that the 15th FC consider ending income deficit grants and provide**

a method for **performance-based awards**. However, the question remains as to **whether the FC is the appropriate entity to assess the performance of the states**.

3. **State's concerns with respect to federalism** - States, too, are concerned about the financial commission itself. It is fully a Union-run organization. State governments have no role in the selection of members or in determining the terms of reference.

15th Finance commission

Key recommendations:

- The share of states in the Centre's taxes is recommended to be decreased from 42% during the 2015-20 periods to **41% for 2020-21**. **The 1% decrease is to provide for the newly formed union territories of Jammu and Kashmir, and Ladakh** from the resources of the central government.
- **Horizontal distribution - Criteria for devolution: –**
 1. Income distance-45%
 2. Population (2011)-15%
 3. Area-15
 4. Forest and Ecology-10%
 5. Demographic performance-12.5%;
 6. Tax Effort-2.5%.
- **Analysis of horizontal distribution**
 1. **Income distance** is the distance of the state's income from the state with the highest income. The income of a state has been computed as average per capita GSDP during the three-year period between 2015-16 and 2017-18. States with lower per capita income would be given a higher share to maintain equity among states.
 2. **The Demographic Performance** criterion has been introduced to reward efforts made by states in controlling their population. It will be computed by using the reciprocal of the total fertility ratio of each state, scaled by 1971 population data.
 3. **Tax effort** has been used to reward states with higher tax collection efficiency. It has been computed as the **ratio of the average per capita own tax revenue and the average per capita state GDP** during the three-year period between 2014-15 and 2016-17)
 4. **Forest and ecology:** This criterion has been arrived at by calculating the share of the dense forest of each state in the total dense forest of all the states.
 5. **Population –** Revenue distribution based on 2011 population. Apprehensions have been raised by the southern states but that has been compensated by providing the separate funding for the demographic performance.
- **15th Finance commission and Local government**
 - a. **Increased Grants to Local government** -15th FC has recommended grants of RS.4,36361 crore to Local Bodies (2.4 lakh crore for rural local bodies, and 1.2 lakh crore for Urban Local Bodies) which is an **increase of 52% when compared to 14th FC recommendation**.
 - b. **Urban finance** - The 15th Finance commission has taken bold, imaginative and far-sighted measures.
 - i. **Substantive increase in funds to cities** – Rs. 1.55 lakh crore over a five –year period from 2021-2026, 78 percent increase over grants during the 14th FC period.
 - ii. 15th Finance commission has recommended “**performance-based grants**” for incubation of new cities and health grants to local governments.
 - iii. In grants for Urban local bodies, basic grants are proposed only for cities/towns having a population of less than a million.
 - iv. For Million-Plus cities, 100% of the grants are **performance-linked** through the **Million-Plus Cities Challenge Fund (MCF)**.

- **Grants in Aid and transfers**
 - a. 15th has recommended an **increase** in conditional transfers. These are '**tied**' funds. States are eligible to them only upon fulfilling certain criteria. All conditional grants are meant to 'nudge' states towards best practices in public finance management, with a view towards fiscal prudence. These grants revolve around four main themes.
 - i. **Social sector including health and education**
 - ii. **Rural economy**
 - iii. **Governance and administrative reforms**
 - iv. **Performance-based incentive system** for the power sector, which is not linked to grants but provides an important, additional borrowing window for States.
 - b. While the share of conditional grants was equivalent to only 17 per cent of the total FC transfers under the 14th Finance Commission period, it has now increased to nearly 57 per cent of approved transfers under the 15th Finance Commission.
 - c. **Implication on states**
 - i. The **fiscal autonomy** of these grants is, therefore, comparatively **limited** to untied funds.
 - ii. States themselves cannot access these resources unless they comply with the mandate determined by the Centre.
- **Recommendation with respect to Fiscal road map**
 - **Fiscal deficit and debt levels:**
 1. The Commission suggested that the centre bring down fiscal deficit to 4% of GDP by 2025-26.
 2. For states, it recommended the fiscal deficit limit (as % of GSDP) of:
 - 4% in 2021-22
 - 3.5% in 2022-23
 - 3% during 2023-26.
 3. If a state is unable to fully utilize the sanctioned borrowing limit as specified above during the first four years (2021-25), it can avail the unutilized borrowing amount (calculated in rupees) in subsequent years (within the 2021-26 period).
 - **Revenue mobilisation:**
 - Income and asset-based taxation should be strengthened.
 - To reduce excessive dependence on income tax on salaried incomes, the coverage of provisions related to tax deduction and collection at source (TDS/TCS) should be expanded.
 - Stamp duty and registration fees at the state level have large untapped potential.
 - Computerized property records should be integrated with the registration of transactions, and the market value of properties should be captured.
 - State governments should streamline the methodology of property valuation.
 - **GST** - The Commission highlighted some challenges with the implementation of the Goods and Services Tax (GST). These include:
 - Large shortfall in collections as compared to original forecast
 - High volatility in collections
 - Accumulation of large integrated GST credit
 - Glitches in invoice and input tax matching
 - Delay in refunds.

- States should amend their **fiscal responsibility legislation** to ensure consistency with the center's legislation, in particular, with the definition of debt. States should have more avenues for short-term borrowings other than the ways and means advances, and overdraft facility from the Reserve Bank of India. States may form an independent debt management cell to manage their borrowing programmes efficiently.

Issues with the 15th finance commission

1. Using 2011 census for revenue distribution

- a. The population parameter used by the Commission has been criticized by the governments of the southern states.
- b. Southern states that have worked more effectively to limit population will be penalized as a result of their efforts. As a result, the southern states are demanding that the 1971 census be utilized instead of the 2011 census in the Finance Commission's revenue allocation formula.

2. Conditional grants to local governments — Critics say that conditional grants reduce states' authority. States must establish state finance commissions to determine state government grants and report on recommended execution by March 2024. 60 per cent of grants will be linked to the provision of sanitation and water services. While they are good, they encroach on the sovereignty of states and local governments to set their own priorities.

3. States' demand for larger loans declined and net borrowing fall—The 15th FC has refused to give in to the States' demand that they be allowed to borrow higher sums without being subjected to limitations in order to address their immediate fiscal needs. Furthermore, for the second year in a row, the base limit for state government net borrowings has been lowered. After the Covid crisis, the additional borrowing space granted to states was cut to 0.5 percent of GSDP, which is also conditional on the implementation of electricity sector reforms.

4. Non-lapsable defence fund – The 15th FC has agreed to the Centre's proposal to establish a non-lapsable dedicated fund to support defence and internal security modernization. While the Consolidated Fund of India will provide a significant portion of the fund's funding, other sources of funding are unclear. Given the Centre's contention that states should share the burden of defence and security, a portion of the States' allocation of resources could be diverted to fund this facility.

Concluding line

- 'Since the Finance Commission is a constitutional body, intended to be quasi-judicial, its recommendations should not be turned down by the Government of India unless there are extremely strong grounds,' said **Dr. P V Rajmanna**, Chairman of the Fourth Finance Commission
- There has been considerable expansion in the role of the commission being an architect of fiscal restructuring. Despite the changing fiscal environment and considerable expansion in its functions, the institution of the Finance Commission has ensured smooth functioning of Centre-State fiscal relations and ensure a just and equitable sharing of financial resource both vertically and Horizontally contributing to the economic development and prosperity of both union and states.

Union Public service commission

Union Public Service Commission is the India's principal recruitment agency . It is an **autonomous constitutional body** in the sense that it was constituted directly by the constitution. **Article 315-323** contains the provisions of the UPSC. The UPSC is supposed to be India's "watch dog of the merit system," according to the Constitution.

Composition

- It is made up of a chairman and other members appointed by India's President. The constitution does not specify the body's strength, leaving it to the president's discretion. It usually has 9 or 11 members, including the chairman.
- There are no requirements for membership, save that at least half of the members must have worked for the Indian government or a state government for at least 10 year.

Appointment and removal

1. **Appointment** - Chairman and Members are appointed by the President of India.
2. **Term of Office:** Any member of the UPSC is elected for a six-year term or until he or she reaches the age of 65, whichever comes first.
3. **Reappointment:** Anyone who has previously served a Union Public Service Commission is ineligible to be reappointed to that position.
4. **Resignation:** A member of the Union Public Service Commission can resign from his or her position by writing to the President of India.
5. **Members' Removal/Suspension:** The Chairman or any other member of the UPSC may only be removed from office by the President of India. The President can suspend the Chairman or any other member from his/her office in respect of whom a reference has been made to the Supreme Court.
6. **Conditions for Removal:** The Chairman or any other member of UPSC may be removed if he/she:
 - a. Adjudged an insolvent.
 - b. Engages during his/her term of office in any paid employment outside the duties of his/her office.
 - c. Is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body.

Functions

1. Examines candidates for positions in the all-India, central, and public services of the centrally governed regions.
2. It assists the states (if asked by two or more states) in formulating and implementing joint recruiting strategies for any services that need individuals with particular credentials.
3. The UPSC's recommendations are not binding on the government.

Issues

1. **Limited recommendatory role** - The role of UPSC is not only limited, but also recommendations made by it are only of advisory nature and hence, not binding on the government. It is up to the Union government to accept or reject that advise. The only safeguard is the answerability of the government to the Parliament for departing from the recommendation of the Commission. Further, the government can also make rules which regulate the scope of the advisory functions of UPSC.
2. **The establishment of the central vigilance commission (CVC)** in 1964 had an impact on UPSC's participation in disciplinary proceedings. Because the government consults both when

initiating disciplinary action against civil servants. The issue comes when the two bodies provide contradictory advice. However, UPSC has an advantage over CVC because it is a constitutional body.

3. The following **matters are kept outside the functional jurisdiction of the UPSC**. In other words, the UPSC is not consulted on the following matters.
 - a. While making reservations of appointments or posts in favor of any backward class of citizens.
 - b. While taking into consideration the claims of scheduled castes and scheduled tribes in making appointments to services and posts.
 - c. With regard to the selections for chairmanship or membership of commissions or tribunals, posts of the highest diplomatic nature and a bulk of group C and group D services.
 - d. With regard to the selection for temporary or officiating appointment to the post if the person appointed is not likely to hold the post for more than a year.

Way forward

The Public Service Commissions are the backbone of the Indian civil service, ensuring and protecting its meritocracy. However, some improvements and reforms may be necessary to improve the efficiency of these commissions. The following are some reforms that can be implemented.

1. **Involvement of Research Institutes and Universities in the Operations** of the U.P.S.C. and S.P.S.C. The U.P.S.C. and S.P.S.C. should collaborate with advanced institutions to conduct specially designed administration courses and to keep the services up to date with new technological and knowledge developments.
2. **Commission to serve as a think-tank on personnel issues:** The commissions should go beyond the role of recruiting candidates in answering the issues relating to civil services and their role in a rapidly changing society.
3. **The necessity for decentralization:** The U.P.S.C. and S.P.S.C. are frequently overburdened with work, and they also receive and manage tens of millions of applications. With such a large workload, the organization's efficiency generally suffers. As a result, it becomes critical to decentralize the duties of these commissions in order to speed up their work.
4. **Maintain synchronicity with the passage of time:** So far, U.P.S.C. and S.P.S.C. have demonstrated exceptional expertise, impartiality, and integrity. However, a new world has formed, one based on transparency, accountability, and delivery, and U.P.S.C. and S.P.S.C. must adapt to these changes.

It is undeniable that our Public Service Commissions have performed well in their roles and will continue to do so at a far higher level if such reforms are implemented.

National Human Rights Commission

Introduction to National human rights commission

The **National Human Rights Commission (NHRC) of India** is a Statutory public body constituted on 12 October 1993 under the Protection of Human Rights Ordinance of 28 September 1993. It was given a statutory basis by the **Protection of Human Rights Act, 1993 (PHRA)**.

The NHRC is the National Human Rights Commission of India responsible for the protection and promotion of human rights, defined by the Act as "Rights Relating to Life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India."

Composition of the NHRC

1. The chairperson will be chosen from the judiciary, such as a Supreme Court Chief Justice or any other judge.
2. Two members of the judiciary are chosen, one of whom should be a sitting or former Supreme Court Judge and the other a Chief Justice of any High Court.
3. They are the most important members, along with the other two, whose selections are based on their level of expertise, both practical and theoretical, and their ability to steer human rights concerns in new directions.
4. Other members are the ex-officio members like the chairpersons of the National commission of women, child protection and the minorities.

Appointment

1. **President appoints** chairperson and the members of National Human Rights Commission for which a committee nominates the names.
 - a. This committee consists of chairperson, the Prime Minister and the members including Home Minister, Leader of the Opposition in Lok Sabha, Leader of the Opposition in Rajya Sabha, Speaker and the Rajya Sabha Deputy Chairman.

Removal of a Member of the Commission

1. **Section 5 of the Protection of Human Rights Act** describes the procedures and ground for the removal of the any member of the Commission.
2. The **President may remove** the Chairperson or any other Member if he:
 - a. Is adjudged an insolvent; or
 - b. Engages during his term of office in any paid employment outside the duties of his office; or
 - c. Is unfit to continue in office by reason of infirmity of mind or body; or
 - d. Is of unsound mind and stands so declared by a competent court; or
 - e. Is convicted and sentenced to imprisonment for an offence, which in the opinion of the President involves moral turpitude.

Functions of NHRC

The Protection of Human Rights Act mandates the NHRC to perform the following:

1. Proactively or reactively inquire into violations of human rights by government of India or negligence of such violation by a public servant.
2. The protection of human rights and recommend measures for their effective implementation
3. Review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures
4. To study treaties and other international instruments on human rights and make recommendations for their effective implementation
5. Undertake and promote research in the field of human rights
6. To visit jails and study the condition of inmates
7. engage in human rights education among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means
8. Encourage the efforts of NGOs and institutions to working in the field of human rights.
9. Requisitioning any public record or copy thereof from any court or office.

Broader Analysis of the Working

Positive Role Played by the NHRC

Global Alliance of National Human Rights Institutions (GANHRI), a UN body based in Geneva, re-accredited India's apex rights watchdog with the '**A**' status, a perfect score.

- Cases are resolved within months and compensation is granted in 90 per cent of them.
- But on its 25th year anniversary, NHRC highlighted its long list of achievements — disposal of **more than 17 lakh cases**, payment of more than Rs 1 billion to victims of human rights violations, carrying out over 750 spot enquiries of human rights violations, apart from conducting over 200 conferences to spread awareness of human rights across the country.
- The NHRC also states that its role has been significant in combating encounter killings and custodial deaths. The commission's guidelines in 1997 mandates every custodial death and encounter killing be reported to it within 24 hours.

Specific achievements

1. **Chakma refugees:** In 1998, the National Human Rights Commission recommended against deporting Chakma refugees, claiming that doing so would violate their right to life. In the end, the state was forced to abandon its deportation plans.
2. **TADA and POTA Acts:** The National Human Rights Commission argued against giving the TADA and POTA Acts extensive policing powers over terror-related matters. The NHRC's recommendations were instrumental in the Supreme Court's decision to declare these acts unlawful.
3. **Gujrat riots of 2002:** The National Human Rights Commission (NHRC) recommended that cases of riot victims from Gujrat be transferred to other states based on the NHRC's findings about the atmosphere of fear and intimidation that existed at the time.

Issues with the commission

1. The NHRC's autonomy has been questioned because it is **reliant on the law ministry for its administrative and financial needs**.
2. **After one year from the date of the incident, the commission is ineligible to investigate** any problem. Many activists have stated that this is an insufficient amount of time for oppressed individuals or groups to face an immediate threat to their life and so be unwilling to report breaches.
3. **The NHRC's advice is just advisory and not legally binding.** As a result, governmental agencies frequently ignore these reports on purpose. The executive must be required to submit a "action taken report" within a year.
4. Because the NHRC's and other institutions' **jurisdictions overlap**, victims of human rights breaches may find it difficult to receive redress from any one of them
5. The Act stipulates that some of human rights commission members must be former judges, however it is unclear if these judges must have a track record of human rights activity, expertise, or qualifications in the field. The Act is ambiguous when it comes to the other two members, just stating: "persons with knowledge and expertise in human rights."
6. The post of the Chairman is also considered as the post which has been rewarded to the loyal judges which defeats the real purpose of protection of rights and result into the creation of machinery which is toothless.
7. **A toothless tiger**
 - a. Much of the complaints that come to the commission are dismissed even before a preliminary hearing, and critics argue that the NHRC shies away from contentious cases with political implications.
 - b. Short-staffed and inadequately funded, the watchdog also lacks the required infrastructure to handle India's civil rights violations.

- c. Such is the situation, that its own chairperson, former chief justice of India **H.L. Dattu**, himself has called the NHRC a “toothless tiger”.
- d. It’s an assessment that the Supreme Court agrees with: Last year, while hearing cases relating to alleged encounter killings in Manipur, the court observed that there is “no doubt that it (NHRC) has been most unfortunately reduced to a toothless tiger”.
- e. It has been also highlighted in the universal periodic review of the human rights by the UNHRC that there is no concrete achievement even after the existence for so long.
- f. These remarks have been made because of the following limitations of the NHRC
- g. It is only a recommendatory body - It does not have powers to prosecute a human rights violation on its own.
 - i. Limitations w.r.t Armed forces - The NHRC cannot directly investigate alleged human rights violations by the armed forces but can only seek a report from the Government on the matter.
 - ii. **The NHRC is limited by its ability to investigate human rights violations** that have occurred up to a year before and not earlier.
 - iii. **Limited resources**- it has been highlighted by the NHRC chief that We painstakingly investigate human rights violation cases, sometimes in remote areas with our limited resources.
 - iv. **The Act does not categorically empower the NHRC to act when Human rights violation through private parties take place.**
 - v. **The NHRC does not have its own cadre of officers** it relies on staff that is on deputation from other Government departments. The Global Alliance of National Human Rights Institutions (GANHRI) has observed the lack of women appointed to the NHRC due to the restrictive pool of candidates from the higher judiciary, limiting its ability to tackle gender sensitive issues in an effective manner.

8. Questions of independence and govt interference

- a. The NHRC’s independence has always been in question given that the very state, which causes the human rights violations, has to fund and provide resources to the rights watchdog.
- b. **Gonsalves says** NHRC’s lack of independence makes it a “lap dog, instead of a watch dog”.
- c. **Human Rights Law Network** has filed a writ petition in Supreme Court outlining the civil society concerns about NHRC, including its lack of independence. The case is pending for over two years.
- d. “Most instances of human rights violations that the NHRC investigates are against the police and, ironically, the commission comes under the Home Ministry,”
- e. “Unless the NHRC is made truly autonomous and there is political will to strengthen human rights, its powers will remain on paper.”
- f. Civil society groups argue that NHRC has refrained from asserting its independence by not taking up cases with high political stakes.
 - i. For example, in 2003-2004, in the aftermath of the communal riots in Gujarat, just 1.7 per cent of the rights cases were from that state. Of the 72,990 cases that year, only 1,268, not all of them riot-related, were from Gujarat.
- g. “NHRC takes cognizance of cases based solely on media reports and not through its on-field work at the grassroots level,” said **Vivek Sheoran**, a Hisar-based civil rights lawyer. “Obviously, not all human rights violations are reported or get the same media attention and the NHRC intervention also dies when the news cycle ends.”
- h. The NHRC also has no powers to investigate human rights violations involving the armed forces. Since the commission can only send queries to the Defence Ministry,

Jammu and Kashmir and Manipur — two states where the Armed Forces (Special Powers) Act has been in effect — have seen an abysmally low number of cases of human rights violations.

How to make NHRC a “Toothful Tiger”

Former NHRC chief – HL dattu -Union government need to increase the Commission’s power so that it can have more teeth, rather than remain a “toothless tiger”.

Reforms needed

- Parliament should amend The PHRA, 1993 needs to include **mandatory time frame for action taken and response formulation by the Government** at the Centre and in the states on NHRC recommendations.
- NHRC should work in better co-ordination with the civil society organisations.
- **Ratification of Key conventions and enactment of enabling laws** as mentioned in the issues above will help strengthen NHRC s powers.
- NHRC Need to constitute and **maintain an independent cadre of officials** that will be able to develop expertise in human rights violation investigation
- There is an **urgent need for the induction of the experts** of the human rights in the body to address the issue of the human rights violation in effective manner. The much-needed diversification could be realized through the **inclusion of civil society members**.
- Also, the **NHRC urgently requires officers of its own** along with the independent staffs to carry out independent investigations. The government should provide resources for this.

NHRC amendment Act 2019

The bill has the objective to widen the pool of candidates representing the Body

1. Ex-SC judges will be considered instead of ex-CJIs to for the office of NHRC chief.
2. A similar amendment has been proposed at the state level, in which all Ex HC Judges are eligible for appointment instead of the Ex CJHC.
3. Like other commissions, reduce the NHRC's chief's term from five to three years.
4. The NHRC needs to be more diverse –
5. The number of people with HR experience should be raised from two to three.
6. The NCPDR [National Commission for the Protection of Children's Rights] must be designated an ex-officio member as well.
7. An ex-officio member must be appointed as Commissioner for Disabilities.
8. The bill provides to Confer upon State Commissions, the functions relating to human rights being discharged by the Union territories, other than the Union territory of Delhi, which will be dealt with by the Commission.

lacunas of the amendment

- Government **has amended the Protection of Human Rights (Amendment) Bill 2019**, which makes sweeping changes of far-reaching consequences to the **composition of the commission**
- But the changes introduced in the Protection of Human Rights (Amendment) Bill 2019 **does not further empower the NHRC, ignores need for structural changes.**

Concluding line

- Human rights has been considered as the most important right, because Human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. The legitimacy and credibility of this institutions rest on their ability to address the problems relating to human rights in a society.

National commission for women

Introduction part

- Throughout history, all societies have exploited and oppressed women in some way. The year 1974-75 was designated as the International Year of Women in this regard.
- In 1975, Mexico City hosted the world conference of the International Women's Year. The meeting resulted in Mexico issuing a declaration on "**women's equality** and their contribution to development and peace."
- This required participating countries to compile a **status report on women's conditions** in their respective countries. As a result, the committee on the 'status of women in India' released the '**Towards Equality Report.**'
- The 1974 statement is credited with laying the groundwork for the autonomous Indian women's movement by outlining discriminatory socio-cultural, political, and economic practices.
- For the government, academics, and women's organizations, the report's findings reignited the women's question.
- By discussing development and democracy from a gender viewpoint, the report proved to be an eye opener on the conditions of women. It resulted in more gender-sensitive policymaking, with a focus on female child education.

Women are reported to suffer from a condition known as 'womb to tomb.' The following categories can be used to group together diverse women's issues.

1. Cognitive – Women's identity
2. Gender preconceptions in the social sphere.
3. Economic - In most cases, economic dependence.
4. Representation in politics.
5. Issues with the mind.

Constitutional Provisions for Women

1. **Article 15(3):** State can make special provisions for women.
2. **Article 23:** Right to being protected from being trafficked and forced into bonded labor.
3. **Article 39 (a):** State to ensure that, men and women equally, have the right to an adequate means to livelihood.
4. **Article 39 (d):** State to ensure equal pay to women for equal work.
5. **Article 42:** Provision for just and humane conditions of work and maternity relief.
6. **Article 243 D:** Provides for reservation of seats in Panchayats at all levels to women.

Importance/Significance of national commission for women

1. Women are considered to be the most vulnerable members of our society.
2. They do not belong to a minority group or the lower social levels, yet they are severely handicapped in a patriarchal society.
3. Under the '**National Commission for Women Act 1990,**' a National Commission for Women was established to assist the legislative and judicial processes in empowering women.
4. **The formation of this commission is mandated by section 3 of the NCW Act.**
 - a. This provision specifies that the commission will consist of one chairperson, five

members representing various fields, and a member secretary with expertise in management, organizational structure, sociological movement, or a member of the Union's civil service.

Functions of NCW (National commission for women)

1. The commission is likely to look into the advancement of women in either the federal or state governments.
2. To investigate the causes of women's deprivation and recommend appropriate remedies.
3. To investigate allegations of infringement of the constitutional provisions pertaining to women's protection and development.
4. Participate in planning mechanisms relating to women's socioeconomic development.
5. By enjoining the civil court's authority, the commission can summon anyone, receive evidence, and compel anyone to testify in a case.
6. Take action or issue a notice on topics connected to women's deprived position.
7. The NCW Act's Section 10(1) has a 14-point instruction which can be divided into 4 heads
 - a. Safeguarding rights of women
 - b. Research the issues that women confront and propose recommendations to solve them.
 - c. Assessing the position of Indian women.
 - d. Supporting and litigating claims involving women's rights violations.

Powers of the commission

1. While investigating any case, the commission has the authority of a civil court and can wield it in specific cases.
2. Calling a person to a meeting and demanding their presence.
3. Demanding that any document be discovered or produced.
4. Receiving affidavit-based evidence.
5. Obtaining any public record from any court or government agency.
6. Any additional matter that may be required by law.

Shortcomings of the commission

1. The Commission **does not have concrete legislative powers**. It only has the powers to recommend amendments and submit reports, which is not binding on the Government.
2. The power to select members of Commission is vested with the Union Government and in India's volatile political scenario the Commission may get politicized.
3. The Commission is **dependent on grants from the Union Government** and this could compromise the independence of the Commission.
4. Despite the fact the last three decades have witnessed a number of initiatives by various governments with regard to women issues, the **manner in which the issues have been addressed, have mainly been symbolic gestures only** and the state has failed to address the issue of gender inequality in an effective manner.
5. Women's advancement, development, and empowerment were emphasized in the 2001 National Women's Policy. The national commission for women's charter also calls for women's empowerment, however the commission is primarily concerned with women's safety.
6. NCW deviates from the NPW 2001 (National Policy for Women) goals, which are to "promote a shift in cultural mentality, to obtain support from all for the upliftment of women, collaborative approach, and synergic interaction."
7. NCW is a women-only organization which also needs to include the men to have diverse

perspective and the opinion of the men.

8. NCW is funded and staffed by the government, which prevents them from being critical of the government in their role as a watchdog. Concerns about AFSPA have never been addressed by NCW in a major way.

Issues

1. The scope of NCW is constrained by the chairperson's inclination.
 - a. For example, the NCW has called for liberal social views on the one hand, yet the chairwoman has urged that Indian women should not emulate the west (wearing short dresses) in the case of public molestation of a young girl in Guwahati on the other.
2. There are two power centers that frequently clash with one another.
 - a. Chairperson and Member Secretary are the two positions available. Moreover, the bureaucracy continues to wield more influence.
 - b. The **second point of contention is between the NCW and the Ministry of Women and Children's Development.**
 - i. The National Council of Women has been chastised for their stance on sexual abuse cases, particularly the Mangalore Pub case.
 - ii. Describing the suicides of three Rajasthan girls as a "simple case of suicide,"
3. The commission, according to detractors, has failed terribly. **There is a dearth of transformational philosophy** among the members.
 - a. According to **Sadhana Arya**, the government has constrained the commission by design, but the members have decided to limit themselves even more.
4. NCW's politicized nature was clear during the Gujarat riots, when it took a pro-government stance.
5. NCW has evolved into a body that distributes patronage as well as a body that is stuck in a conflict of processes.

Way forward

1. It should be ensured that it work as national commission for women (working for the women's cause) and not become only the national commission of women (which means commission consisting of women)
2. To allow to work as true watchdog, the composition and financing should be independent of the government.
3. Its **suggestions should be made obligatory.**
4. The commission should hold consultations with different groups in society, such as NGOs and civil society.
5. The Chairperson should be well-known and free of political influence.

A broader analysis by Lalitha Kumaramangalam, chairperson NCW

- The NCW has the **mandate to review the constitutional and legal safeguards for women**, recommend remedial legislative measures, facilitate redressal of grievances and advise the government on all policy matters affecting women. However, it soon found itself in shackles and virtually powerless. Today, the **commission is desperately fighting for its own empowerment.**
- The major reason for NCW's ordeal stems from the **wanton interference and financial control exercised by the ministry of women and child development (MoWCD)**, even though the

commission is an autonomous and statutory body.

- Since NCW's funds come from the ministry, the two often find themselves at loggerheads on key policy issues.
 - For example, the recent case of the **anti-trafficking bill**. The NCW had rejected the trafficking of persons (prevention, protection and rehabilitation) bill, 2016, drafted by the ministry. Instead of a new law, the commission wanted strengthening of existing provisions of the Immoral Traffic (Prevention) Act. The clash of ideas could have been used for a wider debate on a key law concerning women. However, the **ministry acted revengefully and kept the commission out of the consultations for the draft national policy for women, 2016.**
- Activists associated with various parties across the political spectrum have similar views on the efficiency of NCW. For example, **Girija Vyas**, a former NCW chairperson says, "**The government has never taken NCW seriously. The policy is to adjust the commission somewhere in the process.**" She feels that instead of taking the commission as an 'adjustable seat', the government should extend support and empower it.
- The commission has always **faced shortage of funds.**
- **NCW chairperson has a lower status than the heads of other statutory bodies.** For example, the chairperson of the national commission for scheduled castes and of the schedule tribes have the status of a cabinet minister. The national human rights commission chairperson is a former chief justice and hence enjoys an exalted status. In comparison, the **NCW head enjoys the status of a secretary to the government.** And given the hierarchy in Indian bureaucracy, this difference can have a significant impact on the functioning of the commission.
- NCW hits the hurdle each time it investigates a case of violation of women's rights as senior **bureaucrats do not cooperate with it.** This impacts the investigation adversely. As a result the **commission can hardly do its investigation and limits its intervention** to an inquiry.
- As of now, the **commission mostly deals with cases where FIRs are not registered by police**, or when FIRs are registered but no action is taken. The commission members have demanded setting up of a police chowki within its premises where the aggrieved women can lodge 'zero FIR', which, in turn can be transferred to the concerned police station. NCW also takes suo moto cognisance of non-implementation of laws and non-compliance of policy decisions. The members complain that the **commission often receives poor response from the police and other officials.**
- The commission also conducts research and studies on issues affecting women and sponsors similar work of independent organisations. But no actions are being taken on the findings of the research.
- The commission **faces huge staff crunch.** Former and current members say that the commission needs at least 100 employees to function smoothly. Some even suggest that the seven-member NCW needs to be expanded.
- Strangely, **there is no effective coordination between the national and state commissions** as the latter are autonomous and do not report to the national body. Also, **there is no uniformity in the acts framed by different states for their respective commissions.** There is a huge gap between the two bodies that eventually leads to lack of a coherent approach on women's issues.

Some states like Kerala have bestowed sweeping powers on the women's commissions. It has a DSP-rank police officer stationed inside its premises. The women can come to him to lodge their complaints. This way, the state commission gets an upper hand in cases where a woman is aggrieved. This is considered the best model for coordination between the commission and law-enforcing agencies.

National commission for Scheduled caste**Origin and Introduction**

1. **Article 338** of the original constitution established specific officers to protect the interests of SCs and STs and to assess their progress in the country.
2. After determining that institutional backing was lacking, the union government introduced the **65th constitutional amendment act in 1988**.
3. A constitutionally approved agency, the National Commission for SC and ST, was founded in 1990 to protect the interests of SCs and STs.
4. In 2003, the **89th constitutional amendment** legislation established two distinct commissions to replace the National Commission for SC and ST.
 - a. NCSC was formed by Article 338.
 - b. NCST is established by Article 338(A).

Composition of the NCSC

Chairperson, vice chairperson and 3 full time members including one-woman member.

Functions of the commission

The functions of NCSC is listed in **Article 338(5)**

1. To investigate and monitor all matters relevant to the safeguards provided for Scheduled Castes under this Constitution, any other law currently in force, or any order of the Government, and to assess how well they are working.
2. To look into particular complaints of Scheduled Castes being deprived of their rights and safeguards.
3. To participate in and advise on the planning process for the Scheduled Caste's socioeconomic development, as well as to assess the success of their development under the Union and any State.
4. Reports on the effectiveness of those safeguards should be presented to the President at least once a year and at other times as the Commission sees suitable.
5. To make recommendations in such reports on the actions that should be taken by the Union or any State to ensure that such safeguards and other measures for the protection, welfare, and socio-economic development of the Scheduled Castes are effectively implemented.
6. To perform any other tasks related to the protection, welfare, development, and advancement of Scheduled Castes that the President may designate by rule, subject to the terms of any law established by Parliament.

Powers of the commission

The Commission is vested with the power to regulate its own procedure. The Commission, while investigating any matter or inquiring into any complaint, has all the powers of a civil court trying a suit and in particular in respect of the following matters:

- (a) summoning and enforcing the attendance of any person from any part of India
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits.
- (d) requisitioning any public record from any court or office;
- (e) issuing summons for the examination of witnesses and documents; and any other matter which the President may determine.

The Central government and the state governments are required to consult the Commission on all

major policy matters affecting the SCs.

Critical evaluation:

1. **Since the Commission, for the most part, acts on complaints**, and it is the more upwardly mobile sections within these groups that are articulate and capable of mounting claims, it could be said to have been less than sensitive to the exclusions engendered by the lack of education or information, and has **not used its powers of Suo moto cognisance actively enough.**
2. The Commission's competence in **settling service-related grievances may be contrasted with its inability to reduce the incidence of atrocities and violence against dalits**, or to effectively fight the persistent scourge of untouchability.
3. **It is, however, less active in making a stronger case for fundamental change**, or even a frank and sharp analysis of the social realities of discrimination.
4. By drawing attention to the landlessness of dalit wage laborers, and highlighting the need for streamlining land revenue administration, the Commission has clearly sought to go beyond its role as protector, to advance the welfare of disadvantaged social groups.
5. **Proliferation of the institutions** - In many policy sectors, as in the case of the Scheduled Castes, the proliferation of institutions has created an institutional jungle in which the roles and powers of each are obfuscated.

Recommendations by Centre for policy research

1. **Use Suo moto power more effectively** to counter elite biases, the Commission needs to be sensitive to the exclusions that the lack of education and information may engender, and should ideally use its Suo moto powers more actively.
2. **Internal Evaluation** - It would be desirable for the Commission to engage in an internal evaluation of its priorities on an ongoing basis, and to redefine them in a substantively more egalitarian way so as to accomplish its mandate in the spirit in which it was intended.
3. **There is a pressing need for reliable data on a variety of subjects:** the emergence of a "creamy layer" amongst the Scheduled Castes; the extent to which reservations in educational institutions and public employment have effected a social transformation; the experience of reserved constituencies in parliament as well as the state legislatures, etc.
4. **Commission needs to be more responsive to societal issues** like the changing context of untouchability and intra-group conflicts of interest, and contribute to debates in civil society
5. **Conflict between the Chairperson and members** also hinders the works of the commission because of the politicized nature of appointments to it which needs to be settled.

Conclusion

Our society is so ingrained with social identities that they frequently determine an individual's fate. Jobs, programmes, and policing are not the only means by which India can achieve social equality and access to dignity. Restructuring NCSC's responsibilities is one of many moves in this direction. Empowerment in the true sense can only be achieved by cultivating sensitive and sympathetic cultures that recognize their obligation to try to alleviate the suffering and shame experienced by exploited and disadvantaged people.

National commission for Scheduled Tribes

Origin and Introduction

1. Article 338 A of the original constitution established specific officers to protect the interests of SCs and STs and to assess their progress in the country.
2. After determining that institutional backing was lacking, the union government introduced the **65th constitutional amendment act in 1988**.
3. A constitutionally approved agency, the National Commission for SC and ST, was founded in 1990 to protect the interests of SCs and STs.
4. It was established by **amending Article 338 of the Constitution**. The 89th Constitutional Amendment Act of 2003 also added a new article 338 (A). The former officer for SC and ST was replaced by two separate commissions as a result of this amendment.

Composition of the NCST

Chairperson, vice chairperson and 3 full time members including one-woman member.

Functions of the commission

The functions of NCST are listed in **Article 338(A)(5)**.

1. To investigate and monitor all matters relevant to the safeguards provided for Scheduled Tribes under this Constitution, any other law currently in force, or any order of the Government, and to assess how well they are working.
2. To look into particular complaints of Scheduled Tribes being deprived of their rights and safeguards.
3. To participate in and advise on the planning process for the Scheduled Tribe's socioeconomic development, as well as to assess the success of their development under the Union and any State.
4. Reports on the effectiveness of those safeguards should be presented to the President at least once a year and at other times as the Commission sees suitable.
5. To make recommendations in such reports on the actions that should be taken by the Union or any State to ensure that such safeguards and other measures for the protection, welfare, and socio-economic development of the Scheduled Tribes are effectively implemented.
6. To perform any other tasks related to the protection, welfare, development, and advancement of Scheduled Tribes that the President may designate by rule, subject to the terms of any law established by Parliament.

Powers of the NCST

- i. The Commission is vested with the power to regulate its own procedure.
- ii. The Commission, while investigating any matter or inquiring into any complaint, has all **the powers of a civil court** trying a suit and in particular in respect of the following matters:
 - a. Summoning and enforcing the attendance of any person from any part of India and examining him on oath;
 - b. Requiring the discovery and production of any document;
 - c. Receiving evidence on affidavits;
 - d. Requisitioning any public record from any court or office;
 - e. Issuing summons for the examination of witnesses and documents; and any other matter which the President may determine.
- iii. The Central government and the state governments are required to consult the Commission on all major policy matters affecting the STs.

Issue with working of commission

- (a) **Pending reports:** - It only met four times in the fiscal year 2021-22. It also has a near to 50% rate of complaints and cases that are still pending resolution.

- a. According to a parliamentary committee's recent report, the National Commission for Scheduled Tribes has been dysfunctional for the last four years and has not delivered a single report to Parliament.
- (b) **Manpower and Financial Shortage:** The Committee voiced dissatisfaction with the Commission's near-paralysis in dealing with manpower and budgetary constraints.
- (c) The Commission's recruiting was hampered by a shortage of applications, owing to the eligibility hurdle being set excessively high and the regulations being adjusted to allow many more individuals to apply.

Way forward

parliamentary committee on the National commission for ST has suggested the following

- (a) The vacancies should be filled as soon as possible, as there should be no reason to wait any longer now since the recruitment regulations have been updated.
- (b) The Commission's budgetary allocation needs to be evaluated so that its operations are not hampered by a shortage of finances.

Conclusion

Despite above issues Commission tried its best to perceive the basic problems of Scheduled Tribes and has made recommendations/suggestions to improve the implementation of existing schemes to extend the benefits to the Scheduled Tribes

National commission for Backward classes

Introduction part

The National Commission for Backward Classes (NCBC) was established in 1993 under the National Commission for Backward Classes Act 1993. The commission was given Constitutional Status by the "**Constitution (One Hundred and Second Amendment) Act of 2018**." Article **338B** has been added, establishing the National Commission for the Advancement of the Socially and Educationally Backward Classes (NCBC).

Composition

- The Commission consists of a Chairperson, Vice-Chairperson and three other Members.

102nd constitutional amendment Act of 2018

It gives constitutional backing to the National Commission for Backward Classes, which was first set up under the National Commission for Backward Classes Act, 1993. The previous National Commission for Backward Classes could decide on the inclusion or exclusion of citizens as a socially and educationally backward class. It could also hear complaints regarding the over inclusion or under inclusion of any particular backward class in the list.

The new commission gets constitutional status and more powers to address safeguards provided for backward classes.

Functions as per the new status of the NCBC

According to **Article 338B (5)** It shall be the duty of the Commission—

1. to investigate and monitor all matters relating to the safeguards provided for the socially and educationally backward classes under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;
2. to inquire into specific complaints with respect to the deprivation of rights and safeguards of the socially and educationally backward classes;
3. to participate and advise on the socio-economic development of the socially and educationally backward classes and to evaluate the progress of their development under the Union and any State;
4. to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;
5. to make in such reports the recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the socially and educationally backward classes; and
6. to discharge such other functions in relation to the protection, welfare and development and advancement of the socially and educationally backward classes as the President may, subject to the provisions of any law made by Parliament, by rule specify.

Powers of the NBC

- i. The Commission is vested with the power to regulate its own procedure.
- ii. The Commission, while investigating any matter or inquiring into any complaint, has all **the powers of a civil court** trying a suit and in particular in respect of the following matters:
 - a. Summoning and enforcing the attendance of any person from any part of India and examining him on oath;
 - b. Requiring the discovery and production of any document;
 - c. Receiving evidence on affidavits;
 - d. Requisitioning any public record from any court or office;
 - e. Issuing summons for the examination of witnesses and documents; and any other matter which the President may determine.
- iii. The Central government and the state governments are required to consult the Commission on all major policy matters affecting the Backward classes.

How Will the New Commission Differ from Its Previous version?

1. In addition to reservations, the new act recognizes that BCs require development. The act includes provisions for the development of Socially and Educationally Backward Classes as well as the role of the new NCBC in the development process.
2. The new NCBC has been tasked with the added task of redressing backward-class grievances.
3. **Article 342(A)** promotes additional openness by requiring Parliament's approval before adding or removing any community from the backward list.
4. It necessitates full and holistic growth and advancement of each group towards equality in all aspects of development and welfare, in addition to list-inclusion and reservation.

Continuing issues with the NCBC even after constitutional status

1. The government is not bound by the new NCBC's recommendations.
2. It cannot handle the current dilemma of demands from diverse castes to be classified as BCs because it has no responsibility to define backwardness.
3. It has been criticized that The administration put the entire framework of special protections under the Constitution in jeopardy by keeping the previous general name of NCBC and delinking the body from its soul (Article 340).

4. The Supreme Court-mandated features of an expert body are not included in the new NCBC's composition.
5. As recent data shows lopsided representation of SC/ST and OBC groups, mere constitutional status and further acts will not alleviate the problem at the grassroots level.

Way forward

1. As required by the SC, the composition shall represent the characteristics of an expert body.
2. The government must make the findings of the caste census and the commission's recommendations available to the public.
3. The gender sensitivity and representation of stakeholders should be reflected in the composition of the commission.
4. Only the truly backward elements of society should benefit from reservation, therefore vote bank politics should give way to value-based politics.

National Commission for Minorities

Definition of minorities

1. UN sub-committee on prevention against discrimination and protection of minorities define minorities as 'non-dominant' groups in population wishing to preserve their ethnic, religious or linguistic tradition which differ from the rest of the population.
2. The GOI has notified Muslims, Sikhs, Christians, Parsis, Buddhists and Jains as minorities in India. It is to be noted that in India, we do not have a set definition or a policy to define minorities.

How minorities emerge

1. Years of migration, imperial conquest, refugees for various geographical or political reasons, and, more recently, globalization, have resulted in the creation of minorities in practically every country on the planet.
2. Minorities have been persecuted in several countries, such as Jews under Hitler. As a result, discussing the topic of minorities is critical not only for the national government but also for mankind as a whole.

Minorities in India

Asma Jahangir (a Pakistani academic) lauded India's legal system and constitutional provisions to safeguard minorities, as well as the country's commitment to secularism, in a UN study on '**Freedom of Religious Belief in India.**'

She does, however, point out the following:

1. Poor state-level law enforcement
2. Muslim minorities are being attacked by the majority extremists.

Suggested approach

1. Homogenization or assimilation, or the '**melting pot**' paradigm, refers to **unity in uniformity.**
2. Multiculturalism, often known as "**unity in diversity**" or "**salad bowl**" thinking. Minorities' specific rights are recognized in this approach.

Approach followed by India

1. At the time of its creation, India's constitution acknowledged special rights for minorities. The Government of India has established a statutory commission for minorities, as well as many committees and plans of action, such as the **Sachar Committee and PM's 15-Point Program in 2006**.
2. The Ministry of Home Affairs created the National Commission for Minorities in 1978. The main reason behind this was MHA's perception of insecurity and unfairness among members of the minority group.
3. Muslims, the largest of all minorities, fall well behind the fruits of prosperity. According to the **Sachar Committee on the Socio-Economic Status of Minorities in India**, which was established in 2006, Muslims make up 3/4 of all minorities.

The following are the **statistics supplied by the committee**.

1. Nearly a quarter of Muslim youngsters between the ages of 6 and 14 have never attended school or have dropped out.
2. Only 4% of those who graduate have a postgraduate degree, with only one out of every 20 being a PG holder.
3. Muslims make up 1.3 percent of the IFS, 3% of the IAS, 4% of the IPS, and 4.5 percent of the Railways. It emphasizes the lack of proportional representation for people from Muslim communities.

Why, have Muslims stayed backward? as per Sachar Committee report

1. Muslim communities live in close quarters and want to take advantage of local amenities, particularly for girls.
2. They are uneasy, avoid eye contact, and remain confined to Madrasa.
3. Muslim colonies are located in locations with poor sanitation and living conditions. Because of their confinement, they believe in self-employment.
4. integration is hampered by a psychological dread of isolation from the rest of society. As a result, they have inferior educational outcomes, less job possibilities, and are victims of the unorganized sector.
5. They do not use banking or insurance services. (Islamic finance) They should be connected to ICT, according to the Sachar committee, so that they are aware of financial facilities all over the world.

Origin of National Commission for Minorities.

1. The commission was established by the **NCM (National commission for minorities) Act of 1992**, which also gives it authority.
2. In 1960, the Congress government in Uttar Pradesh, led by Dr. Sampurnanand, established the first ever minorities commission.
3. In Bihar, the Congress-led government formed a multi-member Minorities Commission in 1971, while in Gujarat, a high-powered State Minorities Committee was established in 1977.

Composition

It is a multi-membered board with all members from the minority group, one chairperson, one vice-chairperson, and five members selected by the Government of India from persons of eminence, talent, and integrity.

Constitutional provisions

The term "**minority**" is not defined in the Indian Constitution. However, the Constitution recognizes religious and linguistic minorities.

1. **Article 15 and 16:** Prohibition of discrimination against citizens on grounds of religion, race, caste, sex or place of birth.
2. **Article 25 -28: right to religious freedom** -People's freedom of conscience and right to freely profess, practice and propagate religion.
3. **Article 29:** It provides that any section of the citizens residing in any part of India having a distinct language, script or culture of its own, shall have the right to conserve the same. It grants protection to both religious minorities as well as linguistic minorities.
4. **Article 30:** - All minorities shall have the right to establish and administer educational institutions of their choice.
5. **Article 350-B:** The 7th Constitutional (Amendment) Act 1956 inserted this article which provides for a **Special Officer for Linguistic Minorities** appointed by the President of India. It would be the duty of the Special Officer to investigate all matters relating to the safeguards provided for linguistic minorities under the Constitution.

Functions

1. Assess the progress and development of minorities in the union and its states.
2. Examine how the constitution's safeguards are implemented.
3. Attend to particular complaints about denial of rights and minority protection.
4. Conduct investigations, research, and analysis on topics concerning minorities' socioeconomic and educational development.
5. Any other problem that the central government may refer to it.

Powers: have all the powers of civil court, while trying to suit and in particular,

1. Calling any person from any region of India to appear and questioning him or her under oath.
2. Requiring any document to be discovered and produced.
3. Receiving affidavit evidence
4. Obtaining any record from any court or office on a requisition basis.

Important concerns and Drawbacks

1. **The appointment to commission lacks transparency.** There's no prescribed selection process for making appointments with arbitrarily picking up of names from a list suggested by the nodal ministry.
2. **No constitutional status** - The Commission, unlike the National Commission for SCs, STs, and OBCs, have no constitutional status
3. **NCM is a statutory body under National Commission for Minorities Act, 1992.** It lacks powers:
 - a. To inquire, Suo moto, or on a representation presented to it by a member of any of the notified minority communities regarding any atrocities.
 - b. To investigate and use the services of any investigation agency of the central government or any state government.
 - c. To intervene in any proceeding including related to violation of constitutional safeguards of the minorities pending before a court with the approval of such court.
 - d. To visit any jail or any other institution under the control of the state government, where members of notified minority communities are detained or lodged.

4. **Union and state governments are not required to consult the commission** on problems concerning minorities' development, as they are in the case of NC of SC&STs.
5. **It is claimed that the government's response to these recommendations has been lukewarm.**
6. Because the commission is made up of nominated members, it, like NCW, **operates under the political identity of the day.**
7. It is claimed that, regrettably, the **NCM's function has been limited to a purely political one:** The Muslim minority and the other community has been marginalized.

Way forward


1. NCM should evaluate the performance of its members based on specific performance criterion, to ensure accountability.
2. NCM should set certain baseline targets related to the pendency rates to reduce pendency.
3. At regular intervals, conducting a staffing needs assessment to address problem of vacant positions in the membership.
4. NCM should develop a feedback mechanism regarding how their appeal was processed, irrespective of the decision made. This will help in effective public service.
5. Expanding the role of state minorities' commissions by strengthening them and setting up required state commissions, can help in reducing the pendency rates and increasing hearings effectiveness of the commission.
6. For the better safeguard of the concerns of the minorities, NCM should be given a constitutional status and should be allowed to inquire into specific complaints with respect to deprivation of rights and safeguards of minorities, and to investigate and monitor all matters regarding safeguards provided for minorities under the Constitution or under any law.

Conclusion


In the era of populist majoritarianism that render minority rights ignored the NCM has the potential to rise as an institution that can serve as the beacon of minority rights, especially in diverse county like India, which is constantly face with trial of proving, its resilience & commitment to idea of 'Unity in diversity'.

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Federalism

Federalism

Federalism: Constitutional provisions; changing nature of centre-state relations; integrationist tendencies and regional aspirations; inter-state disputes.

Previous year Questions

2021	Do you think that there has been a gradual shift in the basis on which the demands for the creation of new states have been raised in the different regions of India? Explain.
2020	Does the functioning of federalism in India makes it appear as a unitary in practice?
2020	Mechanism for settling interstate disputes.
2018	Comment on: Implementation of GST and NEET is a major challenge to Indian federalism.
2018	Do the Lieutenant Governors have more powers than the Governors of the States? Explain.
2018	Discuss asymmetrical federalism in India.
2017	Comment on: Indian federation has moved from cooperative federation to competitive federation.
2016	'Article 368 does not enable Parliament to alter the basic structure or framework of the Constitution'.
2016	The philosophy and administration of the distribution of powers between Centre and State is required to be re-assessed.
2016	Critically examine the role of Governor in recent times.
2015	Comment on: 99th Amendment of the Indian Constitution
2015	Comment on: Cooperative Federalism in India.
2015	Critically analyse the discretionary powers granted to the Governor by the Indian Constitution.

Federalism

The term "**Federalism**" comes from Latin word "**Foedus**" meaning **contract** in which the govt. is established by a contract. Constitution is the contract document. To resolve the differences or disputes federation requires a neutral arbiter that is independent judiciary.

Federalism is best understood as a method of promoting self-rule and shared rule and of balancing the interests of a nation with that of its regions. Typically, this is done for a dual purpose—that of limiting the possibility of a tyranny of the majority, and of generating strength through union. A durable federal design thus aims at the contradictory goals of reconciling freedom with cohesion, and a diversity of political cultures and identities with effective collective action.

It is natural for the vast and diverse country like India to go for federal form of polity. The basic idea behind federalism is that it is a political contrivance to achieve good governance when unit desires unity without uniformity.

Definitions of federalism by Scholars

- **K.C. Wheare**, an authority on federalism says that “Federation is a system which consists of two sets of governments which are independent, co-ordinate and distinct.”
- **Prof. A.V. Dicey**, says: “Federation is a political contrivance intended to reconcile national unity with the maintenance of State Rights.”
- **Dr.B.R. Ambedkar**, “The partition of legislative and executive power of the centre and units is the main criteria of federation.”
- **Aradhya Sethiya** - Federalism is not merely a legal division of powers, Democracy and voters, are becoming federal which is called ELECTORAL FEDERALISM

Constitutional provisions

Constitution has defined for Centre and state the domains in which their power prevails not only the constitution has shed enough light on how the both have to exist and deal with exceptional circumstances.

- **Article 1** of Indian constitution explicitly mentions **India as union of state**, strived by **Ambedkar Indestructible union and an example of holding together model**.
- India's system of government is divided between the Central level and the federal units current 28 states and 8 union territories.
- **Seventh schedule of the constitution** -The Seventh Schedule to the Constitution of India defines and **specifies allocation of powers and functions between Union & States**. It contains three lists; i.e. 1) Union List, 2) State List and 3) Concurrent List.
- **Article 246** - The Indian constitution divides legislative power between the union and the states under Article 246. It provides the union exclusive legislative authority over the items on list 1 and concurrent legislative authority over the items on list 3 of Schedule 7 of the constitution.
- **Article 249** -In the national interest, Article 249 of the Indian constitution provides parliament control over matters on the state list.
- **Article 250** - If a proclamation of emergency is in effect, Article 250 of the Indian constitution grants parliament control over any matter on the state list.
- **Article 252** of the Indian constitution empowers parliament to legislate on behalf of two or more states with their approval.
- **Article 352 to 360** states about provisions for the **proclamation of emergency** and the effect of such proclamation on various grounds.

Circumstance favouring federation

- A large country
- A country with diversity
- Feeling among people that they do have some commonality and they can be represented as a unit in international as one
- Military or security reasons
- Economic reasons to have a bigger common market

A.V Dicey gives following features of federation:

- There should be set of states closely connected by location and capable of having an impression that they can have common nationality
- States or units must desire union but must not desire unity. They have a desire to maintain distinct identity and retain autonomy or independence.
- A federal state is a political contrivance intended to reconcile national unity and power with the maintenance of state rights

Unitary	Federation	Confederation
<p>In this form The government is organised in a unitary manner.</p> <p>Subnational governments can exist in a unitary form of government, but they only have delegated or devolved powers, for example.</p> <p>For example the United Kingdom The powers of provincial governments in the United Kingdom are founded on a parliament act.</p>	<p>Subnational administrations under federation get their authority from the constitution.</p> <p>Rather than delegation or devolution, it is a decentralisation.</p> <p>Sub-national administrations are not subordinate to the central government, unlike in a unitary system.</p> <p>For example The united states</p>	<p>Confederation is the polar opposite of unitary government.</p> <p>In a unitary system, the centre grants powers to subnational governments, whereas in confederations such as SAARC and the EU, the units grant the powers to centre.</p>

Nature of the Indian Federal System: A Matter of Controversy

Prof. K C Wheare compared Indian model with US model

- He declared India to be **quasi-federal**.
- According to him, India is federal in form but unitary in spirit.
- He calls Indian constitution having subsidiary federal features whereas prominent unitary features.
- He calls it Quasi federal because of various centralizing provisions like Emergency powers with the centre, All India services, integrated judiciary , residuary power with the centre etc.
- **Criticism of KC Wheare approach**
 - K C Wheare’s approach is **legal constitutional**.
 - Hence his approach is static. He ignores the dynamic aspect of federalism
 - KC Wheare is also **ethnocentric**. When he calls India ‘quasi-federal’ he takes US constitution as a model.



Granville Austin-

- Each federation in **unique, sui-generis**.
- Indian federation is the product of the unique circumstances which India has faced. Whichever country will face cessationist trend is bound to have a model where center is strong. Be it India or Canada.
- Granville Austen calls Indian model as example of **‘cooperative federalism’**.



Alfred Stephan

- Indian model is **Demos-enabling** whereas US's is **Demos-constraining** because Indian model provides representation in Rajya Sabha based on the population unlike US where the equal number of seats have been provided to each state.
- **Indian Model is better suitable for Developing countries**



According to Louise Tillin, Indian constitution is an example of great creativity. Different parameters are followed with different regional aspirations. The attitude of central govt. depends on multiple factors like security, political, economic. Constitution of India provides following options:

- Union territories (UTs)
- full-fledged states
- national capital territories (NCR)
- Autonomous states.
- Autonomous regions.

**Other scholars' view on Indian federalism**

- **Sir. Ivor. Jennings** feels, that India is a federation, with a strong centralizing tendency.
- According to **K.M.Munshi**, the constitution made India "a quasi-federal union invested with several important features of a unitary government."
- **W.H.Morris Jones**, held the view that "Indian federalism was a kind of co- operative federalism where bargaining took place between the centre and the states, but ultimately a solution came out and both agreed to co-operate."
- **Appleby**, goes a step further to describe the Indian Constitution as "Extremely Federal.
- Thus, numerous scholars, reflecting on the vast powers left with the Government of India and the subordinate role of states, and also the crucial powers of the union to practically annihilate an existing state, doubt whether India is a federation at all. Some have called it a '**pseudo - federation**'.

Comparison between US and Indian model

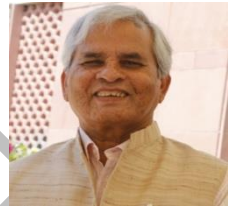
US Federalism	Indian Federalism
US model of federation is the coming together model .	Indian model of federation is the holding together model .
US follows symmetrical federalism	India follows asymmetrical model of federalism.
US is an example of Legislative federation"	India is an example Executive federation" .
Residuary power to make laws rest with state.	Residuary power rests with central govt.
USA is dual federation	Co-operative federalism Morris Jones also calls India as a " Co-operative federalism with bargaining capacity ."

Party system and federalism

Federalism does not operate in vacuum. it gets affected by other factors in the environment since it gets impacted by environment we cannot call it as static idea it is a dynamic concept it evolves with time the most **prominent factors that shape the functioning of federalism is the nature of party system.**

Ideally the federal system should have presidential form of govt. It is not suitable for parliamentary system because it is based on party politics.

According to prof. M. P. Singh, federalism is a dynamic concept, it needs to be understood in the socio-cultural context



- Even US federation has not remained as it used to be Roosevelt, who introduced welfare state in USA also described US federation as 'new federalism. New federalism denotes centralizing trend.

Contradictions between Party System and Federal System

- Prof. MP Singh's has given 2 axes theory which said that Indian parliamentary system has 2 axes.
 - Parliamentary Axis (Strong Centre)
 - **For example,** the era of congress system.
 - Federal Axis (Strong States)
 - Ex: Coalition Govts
- **Federalism ideally requires Presidential form** because Party system distorts federalism
 - **If both centre and state have same party**
 - It results into co-operative federalism and federalism works smoothly
 - **If centre and state have different party**
 - **Scholars like Granville Austin and Morris Jones** held that the states where ruling parties were different with the ruling party at Centre **appeared disadvantaged considering the greater bargaining power of the state government with the same party.**

Evolution of federalism with party system

- **Stage -1 - one party dominant system- called congress system**
 - As India adopted **Centralize planning and begin with one party dominant system federalism was in its ideal form,** 1967 we see the breakdown of congress system and the rise of regional parties in the states.
 - Federalism worked smoothly till the breakdown of congress system
- **Stage -2 -1967- 1989 rise of regional parties**
 - India's co-operative federalism started **showing strains and fault lines,** along with cooperative federalism **emerged bargaining federalism.**
 - Misuse of governor post.
 - Frequent misuse of president rule.
- **Stage 3 -1989 onwards**
 - **In 1990 not only party system and the Centre changed** i.e. **beginning of the coalition system,** even the political economy changed from state controlled to LPG model.

- In this phase the **bargaining power of the state government has increased** due to the presence of regional parties, LPG model also reduced the dependence on the central government.
- The bargaining power of state governments increased to an extent that **scholars like Balvir Arora** described that India is moving from quasi-federal to quasi-confederal.
- **Since 2014** onwards we see the centralizing trend may **be strengthened due to emergence of another dominant party system.**
- As the ruling party has got absolute majority and a sort of one party dominant system, to quote **Suhas Palashikar, 'BJP system is emerging.**

Globalisation and federation

How the role of centre has decreased in the age of globalization?

- **Rolling back of the state with market taking the central role.**
- **State government taking interest in economic policies**
 - State government attracting FDI
- **Structural adjustment programme** – No good governance possible without power devolution which resulted into devolution of more power to state government.

How the role of centre strengthened with globalisation?

- **Emergence of global security threat -more space for centre**
- **Growth of transnational actors**

Co-operative and Competitive federalism

Co-operative federalism in India

- Indian model of federalism is an example of co-operative federalism. In dual federation, the 2 two governments are the two completely independent entities; they are like two water tight compartments.
- India is also seen as an **example of 'Executive federalism', rather than legislative federation** like USA. In India, the importance of state arises in context of administration

Cooperative Federalism is based on the philosophy of **interdependence and in which centre acts as the elder brother** Cooperative federalism is adopted in countries which:

- Suffers from **regional imbalance.**
- Suffers from secessionist trends like Canada & India
- When center and states, and states work with each other for a common cause

Features of co-operative federalism India

- Cooperative federalism is based on the concept of interdependence rather than independence. The two governments are not two water tight compartments, there is interlocking.
- It means both are made dependent on the other. If states are dependent on union, financially, union is dependent on state for implementation. They have to depend on state for execution of union laws and policies.

How co-operative federalism changes into bargaining federalism

- According to Prof. M P Singh, in most of the scenarios, cooperative federalism remains an idea whereas in practice, it becomes bargaining federalism.
- A thin line between co-operative and bargaining
 - Co-operative denotes the existence of the trust between the two levels of govt. It represents the consultation, cooperation, mutual trust, in the words of Prime Minister Modi, 'team India'. In cooperative federalism, centre acts as a friend, philosopher and guide.
 - On the other hand, bargaining federalism represents a situation where center acts as a big bullying brother or a patriarch. Since bargaining power of center is more, bargaining federalism show the disadvantaged position of the states. However, regionalization of party system has enhanced the bargaining powers of state governments.

Competitive federalism

It is a framework in which states and centre compete to provide best services to the citizens at lowest cost

It encourages bottom up planning, where tailor made policies replace one size fits all policies to fulfil different priorities.

Features of competitive federalism

- Competitive federalism is a neo-liberal idea based on 'minimum government, maximum governance' It denotes rolling back of the state. When the developmental functions of the states are rolled back, the vacuum is filled by private sector. Hence the policy of the state governments should be such that they are able to attract private investments.

Examples Competitive federalism in India

- NITI Aayog replaced PC. Hence states are no longer bound by centre's policy guidelines.
- 41% of shareable pool of funds is assigned to states for providing untied funds for bottom up planning
- Number of compulsory CSS (centrally sponsored schemes)has also reduced. Only core of the core CSS will remain
- States are improving ease of doing business to attract private investors. e.g. Rajasthan's land and labour reforms.
- Even funding for centre's schemes is based on competition e.g. Smart City Mission selection of cities.
- Centre has proposed Swiss challenge method based bidding for selecting location for IITs, IIMs, AIIMS, ports, national games, ports, refineries etc. This will not only allow merit based decision making but states' cooperation will be generated through means of competition rather than direction.

Criticism of competitive federalism in India

- Based on neo-liberal vision and hence can accentuate inter-state disparities or regional imbalance
- Regional imbalance has always been a cause of concern as it strengthens the separatist trend
- The regional imbalance may also create more intra-state dispute
- Hence whatever idea is introduced it must not ignore the dimension of equity and justice
- It is necessary that union govt. should help in capacity building of weaker states so that there is a level playing field

According to **Prof. Balveer Arora** in his book **"India's Beleaguered Federalism: The Pluralist Challenge"** held that competitive federalism in Indian context may not be adequate because the situation of different states varies. It will create unfair competition, will lead to the lack of balanced development.



State formation and smaller states in India

Formation of state

- **Article -3** –deals with the formation of new states, alteration of boundaries of the state and changing names of the existing states.
- India model is **holding together model**.

Scholar's view on formation of states

- **Ambedkar** mentioned that **India is indestructible union of destructible states**.
- India is holding together model. **According to Louise Tillin** in **"Remapping India"**, the internal territorial map of India is still not settled.

Theoretical analysis of State formation in India

Political economy approach – Atul Kohli.

- The economic policies of the state dictated the creation of smaller states e.g. The main consideration behind creation of Chhattisgarh was government's neo-liberal approach to mining. Once Chhattisgarh becomes state, it will have no option but to open its mines and minerals.



Sociological theory -Ramchandra Guha and Yogendra Yadav.

- The demands represent the assertion by the marginalized sections. To assert their share in power and development.



Political analysis of state formation - Louis Tillin,

- The main consideration behind state formations has been political. The timing, the possibility of formation is primarily dictated by the interest of the ruling party at center
 - **For example**, Congress kept on postponing the creation of Telangana and made announcement just before elections. Similarly, BJP created Uttarakhand to consolidate its position. **Laluprasad Yadav** agreed for bifurcation of Bihar because it consolidates the position of RJD.



Christophe Jaffrelot also considered state formations in India including linguistic reorganization as purely political phenomenon and primarily based on caste.

- Pandit Nehru opposed linguistic states because he was concerned about the future of Congress system. However, he held that multilingual states are showcases of India's unity in diversity.
- Despite SRC (State Reorganization Commission) accepted need to create Telangana, Pandit Nehru rejected, instead of state, he offered 'gentleman's promise'. But the real reason was Telangana was dominated by communists.



- Linguistic reorganization was an aspiration of certain castes to consolidate their political power. It led to the emergence of dominant castes in different states who could form their governments. For example, Yadav emerged as the dominant caste in UP and Bihar; Jats are the dominant castes in Haryana and western UP; Marathas are dominant caste in Maharashtra; Reddis, Kammas and Kapus in Andhra Pradesh; Lingayats and Vokkaligas in Karnataka.

Various stages in the formation of states

Louise Tillin in her recent book *REMAPPING INDIA* has given the exhaustive analysis of the process of state formation.

- New states have been formed in different phases with different logic/reasons.
- **1st phase: 50s and 60s –**
 - **Geography-** Reorganization of peninsula.
 - **Basis of re-organisation-**The main basis was **linguistic**.
- **2nd phase: 60s and 70s –**
 - **Geography -** Reorganization of western and North Eastern part.
 - **Basis of re-organisation -**As far as North East is concerned, **ethnicity was the criteria**.
- **3rd phase: 21st century**
 - **Geography-** Reorganization of Hindi heartland besides Telangana.
 - The logic has been 'good governance' and development.

Creation of smaller states

In India there has been a consistent demand for creation of new states but there is a lack of consensus among the political scholars on creation of smaller states.

- **Arguments in favour –Scholars**
 - Ramchandra Guha
 - Bibek Debroy
 - Political leaders like Advani and Mayavati.
- **Arguments for the creation of smaller states**
 - Their core argument is logic of good governance.
 - Smaller states are easy to govern and good governance translates into development and inclusive growth.
 - There should be a rationalization between the strength of administration and the population.
 - **According to Bibek Debroy**, there should be at least 50 states in India. USA with 1/4th of Indian population has 50 states but India has only 29 states. If we take UP as a country, in terms of population, it will be the 5th largest in terms of population.
- **Scholars against creation of smaller states**
 - Prof. **M. P. Singh** and **Sudha Pai**.
- **Logic or argument against creation smaller states**
 - **There is no relation between size and good governance** e.g. Despite being large, Tamil Nadu is well governed and despite being small, neither Jharkhand nor Chhattisgarh can be seen as examples of good governance.

- **No relation between size and development.** The growth story of Punjab is over, Chhattisgarh shines on mines (the unsustainable approach.). Maharashtra, despite being large, continues to be more developed.
- **Increased burden on exchequer** - New states means new ministries, new infrastructure for government institutions, unnecessary expenditure.
- **More states mean more interstate disputes.**
- **Smaller states are more vulnerable to political instability-**; defection is easy in smaller states for example - Goa.
- **The economic viability of many new states being demanded is questionable.** They will depend on grants of union, as good as union territories.
- **Strategic concerns** - Some demands may create strategic concerns like Gorkhaland in India. It will give weightage to the Nepal's allegations that India has captured its territories during colonial times.

Concluding line

- This does not mean that no demand for smaller states to be accepted. Wherever there is a genuine aspiration of the people, the demand can be considered. However, it should not be purely political.

Regionalism in India

In a subcontinental size polity like India, regional politics is natural. Regionalism is also an example of the politics of identity. The term region denotes a geographical space. However, the way region and regionalism is understood in politics, it is not just a physical entity. It is always mixed with some socio-cultural identity like Culture, Language, religion etc. e.g. Tamil regionalism has been expressed in linguistic sense.

Scholars' view on regionalism in India

- **According to Paul Brass**, nationalism is a short term trend, regionalism is a permanent feature of Indian politics.
- **According to Sanjeev Baruah**, our identity as Bengali or Punjabi is centuries old whereas our identity as Indian is just 70 years old. Hence it is going to be a natural phenomenon.

Like any other -ism, regionalism is also a way of mobilizing people to gain power. Hence the nature of power sharing in the country will determine the future of regional politics. If secularism in the constitution was included to counter communalism, federalism was included to accommodate regional aspirations.

Hence Indian model of federalism is called as '**holding together**' model. It is also the reason why we preferred asymmetrical model. It accommodates the demand of different sections. There are special provisions with respect to different states.

Expressions of regional movements in India

In India, there have been different types of regional movements at different times.

- **Secessionist movement** which aimed at separation e.g. Kashmir, Khalistan, ULFA, Nagas.
- **The movements for creation of separate statehood.** e.g. Gorkhaland, Bodoland

- **Movements for greater regional autonomy** – these demands keep on emerging in case the ruling party at state and center are different.
- **Bhoomiputra movements** (Son of soil). Shivsena, Asam Gana Parishad, Bodo and are examples of such movements.
- **Linguistic movements** – Tamil sub nationalism.

Reasons for regionalism.

Following theories are given for the cause of regionalism.

Theory	Scholars	Example or explanation
Modernization theory	Rudolph and Rudolph	When democracy is introduced in a traditional society, people will go for identity based mobilization.
Culture of poverty /scarcity	Marc Jurgensmear	Regionalism in North East.
Culture of affluence.	Thomas Jannuzzi	Punjab – Khalistan movement.
Uneven development theory	Robert Hardgrave	Telangana, Vidarbha
Son of Soil theory	Myron Weiner	Maharashtra Shivsena
Politics of opposition	Prof. Iqbal Narain	At some places it is just for opposition. Politically motivated.

Is regionalism good or bad?

There are two schools of thought

- **Regionalism is a threat; it is a territorial in expression.**
 - Since regional movements have territorial base, **they may become 'sub-national'** movements. They may challenge the territorial integrity and hence a cause of concern. **To what extent a regional movement can become a threat to territorial integrity depends on the location.**
 - **In case of India Gurharpal Singh has given core-periphery model.** Regional aspirations emerging from the core regions (Core regions include the region of inland states like Uttar Pradesh , Chhattisgarh) is not a cause of concern but regional movements emerging from peripheries (periphery states include the border states like Jammu and Kashmir, North east and Punjab) becomes a serious concern.
- **Regionalism in itself is not threat. It depends how we manage regionalism.**



- Study by **Dr. Prerna Singh**, “**how solidarity works for welfare: sub nationalism and social development in India.**”
 - She has compared the development in North and South. There is a better development in South because of regional movements. These states develop more bargaining power. On the other hand, UP and Bihar lacks any regional identity and so also suffered in terms of development.



Record of Govt. of India in dealing with regionalism

The record of India in handling regional challenges is many times better than other countries. Not only of the developing world but even from the advanced countries.

There is no formal policy. We can find out the elements of the policy by analysing the case studies of different regional movements. We can observe following trends.

- **Govt. is ready for accepting any imaginative solution/out of box thinking.** The asymmetrical federalism of India provides huge scope for accommodation of such demands. However, there is a rider (restriction). All solution has to be within the framework of the constitution.
- **Govt. is ready for dialogue but no talks with arms.** If the opposite party uses force, government will use bigger force.
- **The usual pattern is to offer political and economic packages.**
- **According to Atul Kohli**, regional movements in India have shown **inverted U curve**. Movement arises, reaches to the peak and then fades. The height of the curve will depend on how much support the demand gets from the public or external powers.

Way forward for dealing with regionalism

According to Atul Kohli, democracy is one of the factor for ethnic movements but only democracy has solutions.

- Hence ‘more democracy’ rather than ‘less democracy’ is needed. Regional movements reflect the aspirations of people for power sharing.
- Hence by devolution of powers, creating institutions where people can be co-opted in the decision making structure is a way forward.



Sarkaria Commission also suggested that strengthening of local self-governments is the best way to deal with such challenges.

Concluding lines

It is suggested that regional movements should not be seen as ‘crisis of nation building’. It should be seen as the ‘crisis of development’. Balanced regional development, inclusive growth and cooperative federalism is also an important measure.

We should not forget **Ambedkar** who held that primacy has to be given to the interest of the nation over the interest of the party.

Center-State Disputes

Constitution has defined for Centre and state the domains in which their power prevails not only the constitution has shed enough light on how the both have to exist and deal with exceptional circumstances, however in practice it is not the constitutional law but political factors behind Centre state relation that have an upper hand to claim.

Area of Disputes

Legislative Field

The distribution of powers is tilted toward center, 42nd amendment further increase the powers of union and decreased the subjects in the state list. subjects of the State list such as **education, forestry, wildlife and bird protection, the administration of justice, and weights and measures** were transferred to the Concurrent List.

In case of India, beside emergencies, when our federation becomes unitary, even in normal situations, union govt. gets power to legislate on state subjects.

e.g. Art 249 -with Rajyasabha resolution as a safeguard. However, Rajyasabha is hardly a federal chamber in India.

- **Art 249**
 - If RS passes a resolution that regarding certain subject of state list, Parliament can pass law, then Parliament can pass law in that respect
 - Resolution ends after one year
 - Majority of 2/3 is needed
 - Law ceases after 6 months of expiry of resolution
- **Art 252**
 - When two or more states pass a resolution in their house/s regarding delegating a function of state list to parliament, Parliament can make law
 - This law can be adopted by any third state if resolution is passed
 - This act can be repealed or amended by an act of Parliament and not of concerning states
- **Art 253**
 - Legislation for international treaty
 - Parliament has power to make laws for any territory to implement international treaty, agreement
- **Art 201**
 - Bill reserved for consideration
 - When governor reserves a bill for presidential assent, the president can give assent or withhold the assent
 - Not applicable for money bill
 - President can return the bill to the governor with or without any message
 - When returned, the house has to reconsider it within 6 months of return
 - When the bill is again passed, with or without amendment, it has to be again sent to the governor for reconsideration

Concerns

- Discretionary power is used in absolutely arbitrary manner. e.g. Similar bill of one state get passed and other is reserved.
- There is no time limit within which president will take the decision. Bills remain pending for decades. Thus union executive acting in an arbitrary manner undermines the parliamentary democracy at the state.
- Thus in legislative sphere, the situation of states is too weak.

Administrative /Executive sphere

Distribution of Executive powers:

- Union has executive power on the subject of union list.
- State has executive power on the subject of state list.
- In case of concurrent list, executive power lies ordinarily with the state until and unless law specifically prescribes that executive power lie with the union.

Constraints on Executive power of state

Constitutionally India is executive federation but same constitution provides huge bargaining powers to the union government. Some of the controversial issues are

- **Power of union to issue directions.** It includes power to punish in case state government does not implement the directions.
 - **As per Article 365**, in case state government does not implement the orders, president can ascertain that the government of the state cannot run according to the constitution.
 - **Art 356. Most controversial.** In case of breakdown of constitutional machinery, union can impose president's rule. Unique provision of Indian constitution borrowed from 1935 act.

Art 356

Art 356 is one of the major reason behind the rise of secessionist trend in states like Jammu and Kashmir, Punjab. The members of constituent assembly raised the objections but **Ambedkar** assured that the provision is included only as a precaution. He assured assembly that it will remain 'dead letter'.

Actual practice

In actual practice, it has been used frequently. In less than 70 years of the republic, around 115 times. More frequent use was till 80s.

- In 90s the misuse has declined because of
 - **Coalition governments at union**
 - **Judicial activism. -The main credit goes to judiciary**
 - **Supreme Court in S R Bommai case 1994** has established that **federalism is a basic structure of the constitution**. Judiciary has issued guidelines with respect to the use of Art 356.
 - It also held that **judiciary can ask for 'material evidence'** on the basis of which any rational person will take the decision to impose Art 356.
 - **No automatic dissolution of the assembly till parliament approves.** Assembly will be kept suspended. Even after parliament approves, it is open to judicial review.

- **Court can restore the suspended assembly** including the government if court finds, it is done with mala-fide intentions.
 - Arunachal Pradesh (2016) became the first case where Supreme Court restored the dissolved assembly.

All India Services (Article -312)

- Members of All India Services are appointed by union and can be removed only by union. Chief Minister of a state can only suspend.
- Since ultimate disciplinary powers are with union, the members of the services act as '**agent of union**'
- '**Politicization**' of civil services There are instances where suspended official has been restored to the same post in the same department by union govt. Not only it weakens the position of Chief Minister, it also leads to '**politicization**' of civil services.

Suggestions in this regard

- Supreme Court had directed to constitute **civil services board**.
 - To prevent politicization of bureaucracy and ensure independence
 - Board can take decisions on promotions, transfers and other disciplinary matters.
- However, no such step has been taken.
- **Hota Committee**
 - Oral directives to be recorded in writing
 - Senior appointments to be made for a fixed term

Deployment of Union's Armed and Paramilitary Forces

42nd Amendment Act introduced that Union government can deploy its forces in aid of the civilian authorities of the state governments.

Constitutional basis

- Art 355 – It is the duty of the Union to protect each state from internal disturbance

State's concerns

- **Law and order is a state subject** so it is violation of constitutional division of power.
- **Suo moto Deployment**-Supreme Court held that such deployment is not the violation of federalism.
- State governments have a concern because the powers, privileges, immunities of the members of these forces is decided exclusively by Union.
- Union should involve states in consultation.

Issue of governor (refer notes of The **Executive** for comprehensive coverage of this)

- Because of Parliamentary System we need Nominal head and Real head to ensure continuity in administration and someone who is above Party Politics
- Issues in detail are discussed in state executive section.

Issues of the Union territories

Constitutional provisions

- **Article 239**, says Administrator can act as he thinks fit and UT Act 1963 also says administrative discretion is final.
- **Article 239 AA (7)(8)**, says that Parliament has power to change the provisions of UT.
- Article 239 AB, says the President can suspend any provision relating to the Council of Minister.
- Section 49 of the NCT Act says the CM and his Council of Ministers shall be under the general control of the President. This has disturbed the delicate balance between the central and Delhi government.

The case of New Delhi

- Due to the co-existence of Article 239 and 239AA, there is a jurisdictional conflict between the government of NCT and the Union Government and its representative, the Lieutenant Governor.
- According to the Union government, New Delhi being a Union Territory under article 239 which empowers the Lieutenant Governor to act independently of his Council of Ministers
- However, the state government of Delhi held that the Article 239AA of the Constitution bestows special status to Delhi of having its own legislatively elected government.

What are the issues

- Demand of Statehood by the Delhi Government
- **Case of Sending back Bill by Home Ministry:** - Bill passed by Delhi legislative assembly was sent back and the ground was it requires sanction of Home Ministry. However, Transaction of Business Rules provides for this, but only when a bill is reserved for President assent under Article 239 AA (3).

SC judgment on discretionary power of LG - 2018

- The words 'any matter' employed in the proviso to Article 239AA (4) cannot be inferred to mean 'every matter'.
- The only occasion when the Union Government can overrule the decision of the State government is when the Lt. Governor refers a matter to the President under the proviso to clause (4). But this proviso cannot totally override the executive decisions of the State government.
- "The power of the Lieutenant Governor under the said proviso represents the exception and not the general rule which has to be exercised in exceptional circumstances by the Lt. Governor.

Government of national capital territory of delhi (amendment) act 2021

- It provides that the Rules made by the Delhi Legislative Assembly to regulate the procedure and conduct of business in the Assembly must be consistent with the Rules of Procedure and Conduct of Business in the Lok Sabha.
- The amendment also prohibits the Legislative Assembly from making any rule to enable itself or its Committees to:
 - Consider the matters of day-to-day
 - Conduct any inquiry in relation to administrative decisions.
- Further, any provision in force having the above said effect will be void.
- Further, the act provides that the opinion of the LG must be obtained before taking any executive action on decisions of Delhi Government, on such matters as may be specified by the LG.

Impact of such amendment

- The basic function of the legislature is to hold the executive accountable, how it will be possible if they can't even discuss things freely in the house.

- The committee who works freely without any interference of the political party will also get impacted.

Concluding Line

Hence the Government of National Capital Territory of Delhi (Amendment) act, 2021, expands the powers of the LG, who represent the centre in the national capital, in accordance with the elected government of the national capital. Now it will be obligatory for Delhi's elected government to consult with the Lieutenant Governor and answer to him.

Financial relations

Unlike US model based on dual federalism, which ensures financial autonomy of the states, India has adopted cooperative federalism where the two levels of government are interlocked.

In Indian scheme, center acts as a 'big brother'. Thus even in financial matters constitution ensures dominance of the center.

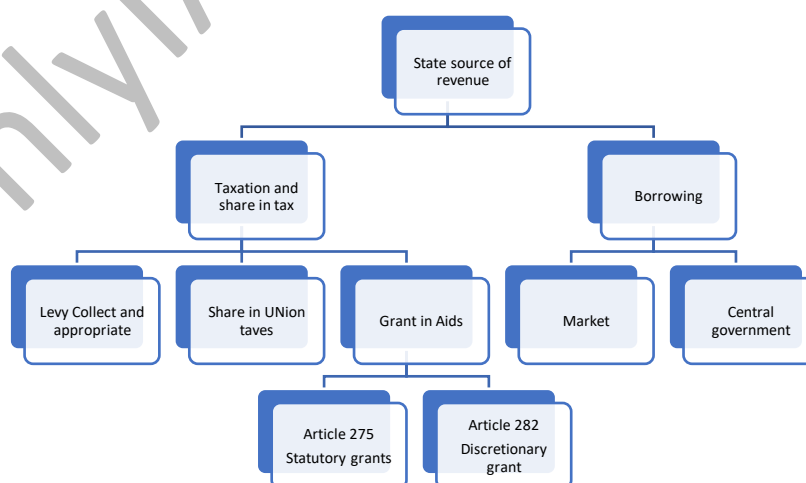
Why centre has been given dominant role

- **Regional imbalance because of colonial policies.** Hence all resources generated in a state, cannot be kept entirely under the state. It will create more imbalance, which is not good for the stability.
- **Centralized planning to achieve faster economic growth,** hence it was natural that center controls more amount of resources.

What are the issues

- The assignment of revenues and expenditures according to the principle of comparative advantage results in the Central governments having access to broad based taxes resulting in Vertical Imbalances.
- There are wide differences among the States in the capacity to raise revenues as the size of the tax base varies widely resulting in Horizontal Imbalances

Distribution of finances



Borrowings- Concerns of state government.

- **State governments power of borrowing is limited.**
 - They cannot borrow from outside the country.

- **Article -293** - The executive power of a State extends to borrowing within the territory of India upon the security of the Consolidated Fund of the State within such limits, if any, as may from time to time be fixed by the Legislature of such State by law and to the giving of guarantees within such limits, if any, as may be so fixed.
- **In the domestic market also, there are limitations**
 - In case they have borrowed from Union government, and the loan remains outstanding, they cannot borrow from the market without the permission of the Union government.
 - In case they have borrowed from the market. And in such case the counter-guarantee is given by Union, they cannot get fresh loans without the approval of the union.
- **Grants in aids**
 - **Statutory Grants**
 - Grants under Art 275, provided to needy states.
 - **Discretionary Grants.**
 - These are called discretionary because both Union and state governments can give these grants for any public purpose even when it does not come within their legislative competence. **It comes under Art 282.**
 - There is also a dispute with respect to discretionary grants between union and states. **The use of Article 282 to implement centrally sponsored schemes remains a source of tension.**
 - It also created conflict between finance commission and planning commission.

Recent issues on Fiscal federalism

Goods and service Tax (GST)

The constitutional scheme of the distribution of taxes is continuously evolving. The recent amendment is 101 Amendment Act.

Changes introduced by 101 Amendment Act

- **Introduction of Art 246A.**
 - Concurrent powers of Union and state to levy GST. Power of Union to levy GST in case of inter-state trade and commerce.
- **Introduced Art 279A.**
 - It introduces a new body, GST Council.
- **GST Council**
 - **Voting pattern** – weighted voting. 1/3rd weightage to the weight of union, 2/3rd weightage to the vote of states. To pass any decision, 3/4th of the votes are required.
 - It makes GST 3 legged race. States have to cooperate with states, Union and states have to cooperate with each other.

GST and federalism

Whether GST strengthens federalism or weakens federalism will depend on our perception of federalism. If we define federalism in terms of strengthening of states, GST weakens the states. If we define federalism in terms of cooperative federalism, GST forces the units of federalism to cooperate.

- **GST as anti –federal**

- Federalism is a political contrivance where units desire unity without uniformity. Hence introduction of one tax goes against the spirit of federalism. We can take the example of USA, despite being the most advanced market economy, USA has not gone for introduction of GST.
- Sales tax has been the most important source of revenue for the state governments. Now they do not have complete freedom to determine the rate of the tax.
 - Even in constituent assembly Ambedkar, who always favoured strong center, had the view that state governments should be given complete autonomy in determining the rate of sales tax. Constitution should not prescribe any limit.
- There are concerns of manufacturing states because GST is a destination based tax.
- **Issues with the GST council**
 - Every decision of the GST Council must be made by a majority of not less than three-fourths of the weighted votes of the members present, according to The Constitution (One Hundred and First Amendment) Act, 2016.
 - The central government's vote counts for one-third of the total votes cast, whereas the votes of all state governments combined count for two-thirds of the total votes cast in that meeting.
 - This gives a virtual veto to the central government on the decision making side- lining the principle of consensus.
- **On the other hand, those who believe in the spirit of cooperative federalism, they believe that**
 - GST compels all the units to cooperate. They believe that GST will convert tangles of the relations to tango.
 - If states have monopoly over determining rates of sales tax, they also get power to levy service tax.
 - It is believed that in the long term, the revenues of the states will increase, will give them more resources.

GST Compensation issue: -

- Centre refused from its legal duty to pay compensation to the states in case of shortfall in GST.
- For the **first five years ending in 2022**, states are promised compensation if revenue growth **falls below 14% (base year 2015-16)**.
- Cess which was supposed to check these shortfalls have also been retained by the central government as highlighted by CAG.
- At the end of 2021 GST compensation is likely to be over Rs 3 lakh crore, with a cess collection of around Rs 65,000 crore. As a result, a compensation shortage of Rs 2.35 lakh crore is predicted.
- Budget 2022-23 allocated Rs 1.20 lakh crore as compensation cess. One lakh crore of this could be used to pay the compensation dues to states and the remaining may be used to service the back to back GST loans.
- The worrying trend is to fill these gaps the central government has allowed States to borrow, but it comes with certain conditions like:- State need to improve in Ease of Doing Business and specific standards for implementation of schemes which is an indication of Unitary Government not a federal Government.

Positive Change in Fiscal Federalism recently

- Replacement of planning commission by Niti Aayog.
- Removal of Distinction between Plan and Non Plan expenditure.

- Increase in devolution of taxes from 32% to 42% by 14th Finance commission and 41% by 15th FC.
- **Allowing State entities to borrow directly from ODA Partners:** - In April 2017, the Union Cabinet gave nod to financially sound State government entities to borrow directly from the bilateral Official Development Assistance (ODA) partners, like JICA, for implementation of vital infrastructure projects.

Planning commission and Niti Aayog

The Planning Commission was a **non-statutory, extra-constitutional body**.

Planning commission – Issues

- 1) It was upgraded to a super cabinet.** The Planning Commission had the authority to not only make policies, but also to decide outlays. As a result, ministries were demoted to the status of implementing agencies. The prime minister hand-picked the members of the planning commission; they were not elected by the people, but they became a key authority in the system.
- 2) The Finance Commission's jurisdiction was narrowed by the Planning Commission.** The finance commission's ability to determine grants was not limited by the constitution. The criterion for both types of awards may have been decided by the Finance Commission.
- 3) However, because of the Planning Commission, a system was devised in which the Finance Commission decided on income grants and the Planning Commission decided on development grants.** As a result, in compared to the Finance Commission, the Planning Commission had to make decisions on large expenditures. As a result, **the Planning Commission gained more clout.**

Comparing Planning commission and Niti Aayog

1. The Planning Commission has become obsolete. Rather than being a part of the market economy, planning is a feature of the socialist economy. The market economy is based on supply and demand. The socialist economy is based on supply. The state controls the economy in a socialist system.
2. India's economy moved from state-directed to market-driven in the 1990s. As a result, planning became more suggestive rather than centralised. Unlike centralised planning, when the government determines not only the priorities but also the distribution of resources, indicative planning means the government merely gives market or private players clues about the government's priorities, such as If the government's objective is to promote the cement industry, it will implement regulations and incentives that will entice private investors to invest in the sector.
3. It will implement laws and incentives that will encourage private investors to invest in the industry. Even indicative planning has been discontinued by the current administration.
4. On January 1, 2015, the current administration abolished the Planning Commission and replaced it with the NITI Aayog. NITI Aayog is a policy-making organisation, not a planning organisation.

Approach of Niti Aayog

- 1) The Prime Minister claims that the NITI Aayog is founded on cooperative federalism.** In the genuine sense of the term, cooperative federalism. Since the beginning, states will be involved in the design of policies. Their priorities will be determined by the state. Working groups of interested states are one of the NITI Aayog's methods.
- 2) The NITI Aayog is likewise founded on the 'team India' vision.** It implies that the private sector is also involved in policymaking. It is a 'bottom up' strategy, according to the Prime Minister. The finance ministry now has the authority to make allocations, which was previously held by NITI

Aayog. Rather than a planned document, it has established a three-year reform programme. NITI Aayog, according to **Balveer Arora**, is a flawed clone of the institution it was created to replace.

Finance commission

The Finance Commission (FC) is a constitutional authority that sets the mechanism and formula for allocating tax revenues between the Centre and states, as well as among states, in accordance with the Constitution and current needs.

The President of India is mandated by **Article 280** of the Constitution to appoint a Finance Commission every five years or sooner.

15th Finance commission

In November 2017, the President of India appointed the 15th Finance Commission, which is chaired by **NK Singh**. It will make suggestions for a five-year period, from 2021-22 to 2025-26.

Report of 15th Finance commission

Recommendations of 15th Finance commission

- 1) Vertical Devolution (Union Taxes Devolved to States):** It has suggested that vertical devolution be maintained at 41%, as it was in its interim report for 2020-21.
 - a. It is at the same level as the 14th Finance Commission's recommendation of 42 percent of the divisible pool.
 - b. Due to the change in status of the erstwhile State of Jammu and Kashmir into the new Union Territories of Ladakh and Jammu and Kashmir, it has made the required adjustment of around 1%.
- 2) Horizontal Devolution (Allocation Between States):** It has proposed a 12.5 percent weighting for demographic performance, 45 percent for income, 15 percent each for population and area, ten percent for forest and ecological, and 2.5 percent for tax and fiscal initiatives for horizontal devolution.
- 3) Revenue Deficit Grants to States:** Revenue deficit grants are derived from the need to cover the States' unmet budgetary needs on their revenue accounts, even after taking into account their own tax and non-tax resources, as well as tax devolution to them.
 - a. The gap between revenue or current spending and revenue receipts, including tax and non-tax, is known as the revenue deficit.
 - b. It has proposed Rs. 3 trillion in post-devolution income deficit grants during the five-year period ending in FY26.
 - c. The number of states eligible for revenue deficit grants has decreased from 17 in FY22, the first year of the award period, to 6 in FY26, the final year of the award period.
- 4) Performance-Based Incentives and State Grants:** These grants are divided into four categories.
 - a. **The first is in the social sector**, where health and education have been prioritised.
 - b. **Second is the rural economy** -Rural economy, on the other hand, has centred on agriculture and the upkeep of rural roads.
 - c. **Third is the governance and administrative reforms** it has advocated funds for the courts, statistics, and aspirational districts and blocks as part of governance and administrative reforms.
 - d. **Fourth, for the power sector**, it has devised a performance-based incentive scheme.

Inter-state Water Disputes

South Asia is heavily dependent on water because of agrarian nature of economy and one of the most stressed in terms of water/per capita availability of water is actually lowest in the world.

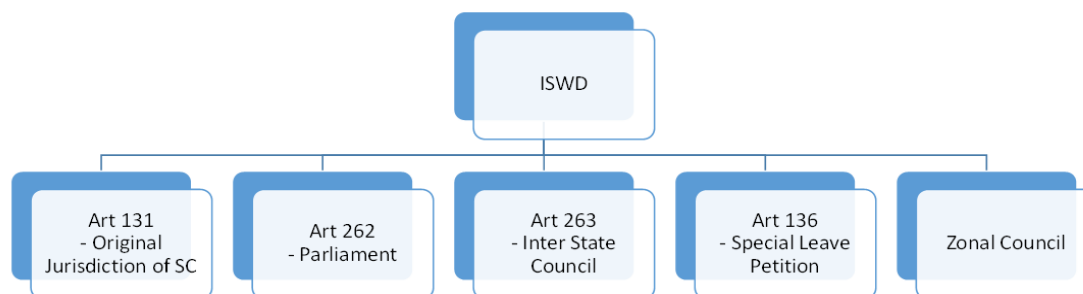
India has water disputes with almost all neighbours. Within the country majority of major rivers are intra-state.

According to the experts like Nirvikar Singh, the biggest responsibility for the continuation of disputes lies with union govt. Union govt. has not utilized its powers in the matter given by the constitution. Approach of union govt. has led to the politicization.

Constitutional provisions

- Water dispute is a special category of dispute for which constitution has special provision (Art 262). The only dispute which excludes the jurisdiction of Supreme Court.
- **Water is a state subject under entry 17.**
- **In case of inter-state rivers, river valleys**, union govt. has vast powers in the public interest. Entry no. 56 of union list.
- Since water is a matter of politics, union has preferred to treat inter-state rivers and river valleys as a state subject.

Mechanism of water dispute resolution



Analysis of the mechanisms

- **Interstate council (Article -263) –**
 - If we talk from the perspective of constituent assembly, it would have preferred the route of inter-state council. (Art 263).
 - Because of the ease with which these councils can be created – by president’s resolution. Unfortunately, the facility was never used. Since water disputes cannot be solved through legal routes, this platform should have been utilized.
- **Zonal Councils – Extra constitutional mechanism** created by state reorganization Act 1956.
 - One of the major purpose was to offset the negative consequences of state reorganization, specifically in case of water disputes.
 - The then home minister, **G V Pant** (Govind Vallabh Pant) mentioned that ‘*rivers know, no linguistic boundaries.*’. Unfortunately, not a single dispute ever referred.
- **Art 131 – Original jurisdiction of Supreme Court.**
 - The least preferred option had been the prime option till 1956. Interstate Water Dispute Act (ISWD Act) 1956 excludes water disputes from the jurisdiction of Supreme Court.

- However Supreme Court continues to play the role of arbiter in such disputes under Art 136 special leave petition.
- **Analysis of the role of the Supreme Court.**
 - **States approach to the Supreme Court against the judgement of tribunals.** Thus the entire exercise of the tribunal becomes waste. It also includes huge wastage of public funds.
 - Supreme Court does activism at the cost of its routine work, there is a huge pendency of appeals in Supreme Court.
 - Special leave petition is special. To be used rarely, but it has become so routine that it is hardly special. More than 30,000 special leave petitions are pending in Supreme Court.
 - **According to Pratap Bhanu Mehta**, Indian judiciary is 'self-perpetuating institution'. It means, it does not leave the opportunity to improve its image and increase its powers.
 - It is the only category of dispute where the jurisdiction of Supreme Court is excluded. Hence Supreme Court should act with restraint.
- **Parliamentary acts**
 - Constitution provides that parliament, if thinks so can exclude the jurisdiction. Parliament may, by law provide for the resolution of the dispute. Accordingly, after state reorganization in 1956, parliament has brought
 - **River boards act 1956.**
 - A proactive approach so that the dispute does not arise at all. It will develop the habit of cooperation among co-riparian states. They will go for joint planning, development, execution, monitoring.
 - No board has been constituted so far.
 - **Interstate water dispute Act 1956**
 - According to its provisions, if a State Government submits a request about a water dispute and the Central Government believes the matter cannot be resolved through negotiations, a Water Disputes Tribunal is established to resolve the dispute.
 - The act was revised in 2002 to incorporate the Sarkaria Commission's principal recommendations.
 - The modifications stipulated a one-year time limit for establishing the water disputes tribunal, as well as a three-year time limit for making a ruling.

Amendments to the River water dispute act 1956 In 2002

2. In 2002, an update to the Inter-State Water Disputes Act was approved, which included the following changes:
 - Within one year after receiving the request, the tribunal must be established.
 - The tribunal should make its decision within three years, and in extraordinary circumstances, within five years.
 - If the award is not implemented right away, the parties involved have three months to seek clarification.
 - The tribunal's decision will have the same legal effect as a Supreme Court ruling or decree. The decision is final and outside the scope of the Supreme Court's jurisdiction.
 - However, the States can still approach the SC under Article 136 (Special Leave Petition),
 - Private individuals could seek the SC under Article 21 violations (Right to Life).

The Inter-State River Water Disputes (Amendment) Bill, 2017

3. The Inter-State River Water Disputes (Amendment) Bill, 2017 was tabled in Lok Sabha in March 2017 to streamline the adjudication of inter-State river water disputes by revising the existing ISRW Act, 1956.
4. The bill proposes to **establish a stand-alone Tribunal with a permanent location**, office space, and infrastructure, obviating the need to form a separate Tribunal for each water dispute, which is generally a lengthy procedure.
5. The proposed Bill includes a provision for the Central Government to create a **Dispute Resolution Committee (DRC)** for settling inter-State water issues amicably within a **maximum of one year and six months**.
6. Any disagreement that cannot be resolved through dialogue is sent to the Tribunal for resolution.
7. The Chairperson of the Tribunal will appoint a Bench to adjudicate the issue that has been referred to the Tribunal.
8. The requirement that the final judgement of the tribunal be published in the **official gazette has been repealed under the Bill**.
9. The bill also states that the **tribunal's decision will be final and binding on all parties** involved in the dispute.
10. The bill also calls for a **national-level transparent data gathering** system for each river basin, as well as a single body to manage the data bank and information system.

The Inter-State River Water Disputes Amendment Bill, 2019

- The 2019 Inter-State River Water Disputes Amendment Bill is a bill that amends the Inter-State River Water Disputes (Amendment) Bill, 2017, has been changed.
- Three additional elements have been added to the most recent bill
 1. Instead of several courts, the major statute establishes a permanent tribunal with unique benches for each dispute
 2. Instead of using the Centre's mediation, a **Disputes Resolution Committee (DRC)** will try to resolve disputes through mediated negotiations.
 3. A provision for selecting a technical agency to manage a data bank to aid in the resolution of disputes.
- **Significance of the amendment**
 1. A permanent tribunal will **shorten the time it takes to resolve interstate river disputes**. In comparison to long-running individual tribunals, it will also save money.
 2. It gives participants the chance to learn about innovative and emerging techniques to addressing interstate river water issues in India. It will also improve South Asia's potential for transboundary river water administration.
 3. DRC's position has been elevated from that of a merely technical-legal body to that of a proactive agency.
 4. The DRC tries to avoid legal adjudication by negotiating politically negotiated settlements for river water issues that are highly political at their root.

Way forward

- The creation of a **single, permanent tribunal to hear interstate river water disputes** is a significant step toward streamlining the dispute resolution process.
- The Centre's proposal to **create an agency to collect and handle data on river waters alongside the tribunal** is a step that will allow for quick and easy access to data.

- **To develop cooperative federalism**, parochial mind-sets that prioritise regional concerns above national concerns should be discouraged.
- The tools for settling disputes must be **dialogue and negotiations, and political opportunism must be avoided.**
- The requirement for a strong and transparent institutional framework with a collaborative approach is critical.

Kaveri River Dispute

Historical overview

- The water sharing agreement signed in 1924 between the states of Madras and Karnataka (Mysore) was set to expire in 1974.
- As a result, the Tamil Nadu government sought the Union government in 1970 to form the tribunal. The federal government waited 20 years to form the tribunal in 1990, and that was only after they approached the Supreme Court.
- Because the tribunal was formed with such a long delay, Tamil Nadu demanded that the tribunal issue an interim award. When the Tribunal refused, Tamil Nadu went to the Supreme Court, which granted an interim award. Karnataka has decided that it is not obligated to carry out the interim award.
- Tamil Nadu filed a petition with the Supreme Court. Karnataka was ordered by the Supreme Court to carry out the award.
- The tribunal issued its final decision in 2007. It was then appealed to the Supreme Court, which issued its final decision in 2018.

Present status

Intervention by SC. An example of judicial activism. Up till now, supreme court restrained itself from changing the award of the tribunal. It used to entertain special leave petitions with respect to the irregularity in the functioning of the tribunal. However, in Feb 2018, for the first time SC changed the award itself.

- **Highlights of the judgement.**
 - **It has decreased the share of Tamil Nadu.** Increased the share of Karnataka to meet the drinking water requirement.
 - **It has directed that the availability of groundwater will also be taken into account.**
 - It declared inter-state rivers as national assets.
 - Priority to be given to the needs of drinking water.
 - It rejected the doctrine of historical rights
 - It has directed the govt. to implement the decision within 6 weeks
 - Above situation shows that even after Supreme Court's intervention, it is not necessary that state governments will implement the award or union government will show the political will.
- Union govt. brought notification to create **Kaveri Management Authority**
 - It will be a 2 tier body
 - First will be management body
 - Second will be regulating committee which will keep watch at ground level

Case study from North Indian states. (Sutlej Yamuna Link Canal)

1. The problem stems from a conflict that arose between Punjab and Haryana following the creation of Haryana in 1966. Punjab, Haryana, and Rajasthan are the parties involved.
2. A canal between the Satluj and the Yamuna was proposed and work began in 1982 to allow Haryana to use its portion of the Satluj and Beas' waters.
3. Due to Punjab's protests, a tribunal was established in 1986, and an award was issued in 1987, suggesting that Punjab receive 5 million acre feet (MAF) of water and Haryana receive 3.83 MAF.
4. Punjab appealed the decision, claiming that the panel overstated the water's availability. In 2002, Haryana applied to the Supreme Court for permission to build the SYL canal. Punjab has been ordered by the Supreme Court to complete the canal construction within 12 months.
5. The Punjab Assembly approved the Punjab Termination of Arrangements Act in July 2004, putting an end to water-sharing agreements with other states and jeopardising the canal's construction.
6. Under President Advice, the Supreme Court deemed this Act invalid in 2016. (Article 143). As a result, the Punjab Assembly passed a law requiring the land bought for the canal to be denotified and restored to its original owners.
7. In the Sutlej Yamuna Link canal dispute, the Supreme Court has ordered both Punjab and Haryana to maintain the status quo.
8. During a recent session, the Centre volunteered to act as a mediator between Punjab and Haryana.

It's time for the Centre to chart a new route in response to Punjab's demand to divide river flows. For this reason, it is critical that all parties involved refrain from further complicating the matter.

Overall conclusion for the Interstate water dispute

As suggested by Scholar Like **Srinivas Chokkakula** - River governance consensus must be achieved at two levels at the same time: **federal consensus** and **electoral consensus**. A viable solution must recognise that India's federal dynamics, both between the Centre and the states and among the states, require confidence-building. Consensus-building, which must be built on long-term political discourse, must take place in an institutional setting that ensures that all states are fairly represented.

Federalism at the time of COVID

COVID-19 pandemic has laid bare the strengths and weaknesses of all forms of political systems and structures: democratic and authoritarian; unitary and federal.

The pandemic put both the unitary strengths and the federal assets of India's political structure to serious test, buffeting the nation from one extreme to the other.

Louise Tillin, a known scholar on federalism captures this trend succinctly when she says: "India has moved from unilateral centralized decision-making in the first wave to something that approximates unilateral decentralized decision-making by default—in the second wave."



Other factors like The complete domination of the states through the NDM Act along with the use of the levers of finance to twist the tails of the states clearly hurt the quality of federalism and heavily tilted the balance in favour of the Centre.

The federal response to the pandemic has evolved in a number of ways

- **Unilateral centralized:**
 - The Centre took over the many responsibilities which otherwise fall within the domain of the state.
 - The Centre assumed the role of anchor and led from the front in managing the pandemic, particularly during the periods involving national lockdowns.
- **Unilateral Decentralized**
 - The Centre frequently emphasised the involvement of third tier institutions similarly various states delegated substantial powers and responsibilities to these bodies in managing the pandemic.
 - For instance, the Odisha government delegated the surpanch with the powers of a magistrate to control the movement of migrants and oversee physical-distancing norms.
 - Similarly, the Kerala government allowed local bodies to do contact-tracing, conduct health camps and sanitation drives, and sensitise people on health protocols.

Concluding line

The pandemic proved that the Centre and states have different roles but need to work closely during a crisis, instead of adopting a centralised approach.

We can summarise that while federalism was challenged to begin with by the forces of centralisation, federalism reasserted itself as the model that delivers good governance.

Planning and Economic Development

Syllabus - Planning and Economic Development: Nehruvian and Gandhian perspectives; the role of planning and public sector; Green Revolution, land reforms and agrarian relations; liberalization and economic reforms.

PYQ on planning and Economic development

2021	What explains India's modest improvements in social development outcomes even as the rate of growth has accelerated since the limitation of economic reforms?
2020	Liberalisation of Indian economy has not been accompanied with adequate reforms'. Comment?
2019	What has been the political fallout of the Green Revolution in India? Explain.
2017	Comment on: In the post-liberalization era, Indian politics is moving from Ascriptive politics to developmental politics.
2017	What do you understand by Green Revolution? Do you think that a Second Green Revolution is needed to adequately address the agrarian challenges in contemporary India? Examine.
2016	Critically examine the politics of Economic growth in India.
2016	Land reforms have failed in the eradication of rural poverty. Comment.
2015	In the light of neo-economic policies adopted since 1991, examine the relevance of the term 'socialist' in the Preamble of the Indian Constitution.
2015	Compare the Nehruvian and Gandhian models of development.
2013	Comment on: Gandhian perspective of development and its contemporary relevance

Planning and economic development

Planning and economic development is the major area of study under the political economy approach. The approach of political economy is based on the premise that economic decisions are not taken in vacuum there is politics behind economics.

Planning and economic development concerns with distribution of political and economic power in a given society and how that influences the direction of development of policies. India is a welfare state under the directive principles of state policy. Indian state adopted the role of developmental state under the Pandit Nehru.

Problems and challenges at the eve of independence

At the eve of independence India is known for its underdeveloped economy. Poverty is not only acute but is also chronic malady in India. The basic characteristics of the Indian economy are.

1. **Low per capita income:** In the British period the per capita income declined. The per capita income moved down by about 9 per cent during 1905-06 to 1945-46. The estimates of the earlier years, show that during the 100 years of British rule, the per capita income remained stagnant, with a tilt towards downward side.

2. **Low living levels:** The stagnating per capita income was, however, a symbol of the utter poverty of the people. This exhibited itself in many ugly facets of their living. They ate a very inadequate and unbalanced diet. Their clothing was scanty, their housing was primitive and suffered ill health.
3. **A weakened economy During the British rule,** the Indian economy had become incapable of a higher growth rate. With low growth in national income, there was very little that was added to the stock of real capital of the country.
 - a. The rate of net investment at the end of the British period remained stuck at a very low level of 5 per cent of national income. The agrarian relations were mostly moulded into semi feudalism.
4. **Predominance of agricultural occupations:** The stagnating, rather a declining character of the economy during the British rule is also evident from the unfavourable change in its occupational structure. Unlike a growing economy where the percentage of workers in agriculture declines and that in the manufacturing, transport and other services increases, the reverse happened in the case of India. The proportion of working force engaged in agriculture increased slightly and that engaged in non-agricultural sectors slightly decreased.

To sum up, with falling per capita income and a deteriorating productive structure, India not only stagnated, it decayed. **Dadabhai Nauroji** and **R.C. Dutta** have rightly argued that the basic cause of India's stagnation was the policy of the British Government.

After Independence India adopted the strategy of planned development. When a country opts for planned development, it has to design a strategy for the achievement of its objectives.

Gandhian approach of development

Gandhi wasn't traditional economists. He never formulated any blueprint for developmental strategy but we derive his concepts of economic developments from his views on various social, political, economic and environmental issue.

His book, "Hind Swaraj" gives ideas of Gandhi about **true civilization approach toward development.** In this book,

1. He has also **rejected the western model of development.**
2. According to Gandhi, if countries of south adopt same model of development which countries of north adopted so far, at least **9 more Earths are needed.**
3. He rejected suitability of western model to the developing countries.
4. The idea of nonviolence and swaraj remains core ideas in his developmental model.
5. He advocated **non-violence even against environment.**
6. The idea of swaraj means **empowerment of masses, decentralised planning.**
7. **Swaraj at individual level** means minimization of wants.

Pillars of Gandhian strategy are:

1. Economic growth (Sustainable development based on the idea of 'small is beautiful')
2. Distributive/Social Justice
3. Moral regeneration.

Key concept of Gandhian growth model include

1. **Gandhi's Views on Industries** - Gandhi wasn't against large scale industries.
 - a. He believed that need is **not mass production but production by masses.**

- b. Gandhian plan recognises key industries like defence, thermal power, heavy chemicals, mining and machine tools.
 - c. Arguments of Gandhi was industries should not hamper cottage industries, it should not displace people.
 - d. Industrialization should not result into concentration of wealth.
 - e. Promotion of afforestation, animal husbandry, soil conservation, small irrigation projects.
2. **Reforming Agriculture:** Objective is to attain food security. Strategies included
 - a. land reforms
 - b. formation of corporations,
 - c. Abolishing money lending
 - d. Promoting rural credit and auxiliary occupations like dairy farming.
 3. **Rehabilitation of Village industries;** focus was on cottage industries to provide additional means of income - manufacturing of Khadi should be at the same scale like production of rice and wheat. Thus every Indian should have food and clothes.
 4. **Employment oriented planning rather than production oriented.** Decentralized small scale industrialisation to check accumulation of wealth, promotion of afforestation, animal husbandry, soil conservation, small irrigation projects. Gandhi didn't want the rural India to become the colony of urban India i.e. mere supplier of raw materials and a receiver of finished goods.
 5. **His deal of Sarvodaya and Antyodya**
 - a. Influenced by John Ruskin's "Unto this last"
 - b. For Gandhi, the development of individual and society are intertwined.
 - c. **Sarvodaya** generates the movement for internal and external development
 - d. He suggested the concept of trusteeship- capital is social creation. Trusteeship reflects cooperation b/w labour and capitals, it will result into reduction in concentration of wealth. It will result into voluntarily cutting down need

Scholar's View on Gandhian approach of development.

1. **SN Agarwal** in 1955 presented a paper titled "**Gandhian model of growth**".
2. Another noted Gandhian **Sriman Narayan** proposed Gandhian plan.
3. **According to Dr Usha Thakkar**, the essence of Gandhian philosophy is that human values and not the market that should govern us.
 - a. He believed in serving "**Daridra Narayan**" i.e., serving poorest of the poor which is reflected in his ideal of Sarvodaya and Antyodya.
 - b. Gandhi was influenced by John Ruskin's "Unto this last". For Gandhi, the development of individual and society are intertwined. Sarvodaya generates the movement for internal and external development.
 - c. His view was that capital is social creation. Hence, he suggested the concept of trusteeship. Trusteeship reflects cooperation b/w labour capitals, it will result into reduction in concentration of wealth. It will result into voluntarily cutting down needs.
 - d. For Gandhi, there is enough for everyone's need but nothing is enough for greed.

Concluding line

Gandhian approach was not adopted and **considered as utopian**. We can see the consequences of its neglect. The economic model which we have adopted, to catch up with western countries, is unsustainable and full of conflicts. The developmental model has resulted into imbalanced growth and widening of gap between **Indian and Bharat**.

Schumacher in his book *SMALL IS BEAUTIFUL* has suggested the concept of sustainable development based on Gandhian principles.

NEHRUVIAN APPROACH

Nehru was modernist. He was influenced by the achievements of USSR. He wanted to make India a modern and scientific society. He supported the state led planning. He wanted India to be a society based on socialistic pattern. He was influenced by Fabian socialism and described his philosophy as Progressive socialism.

Progressive socialism.

- According to him his model of socialism is **evolutionary, not revolutionary, inclusive, not based on class.**
- It is democratic and comfortable with heterogeneity, egalitarian without levelling, committed to welfare and affirmative action, co-operative to contain destructive competition, oriented to rational planning to overcome anarchic individualism.
- He stressed the need for the government to lead through an advanced public sector, valued local democracy and local management of utilities, and mobilised local initiative in every way.

Pillars of Nehruvian strategy:

- **Socialist pattern of Indian society**
- **Mixed economy:**
 - Faster economic growth
 - Social justice
 - Individual freedom.

Nehru's real approach towards the development strategy can be understood from 2nd five year plan which was based on Nehru –Mahalanobis model.

Key components of **Nehru-Mahalanobis** model are as follows.

1. **Nehru promoted export promotion and import substitution model which will** make India free of foreign imports will give freedom and autonomy to India even for foreign policy
2. **Investment in heavy industries –**
 - a. It will promote **capital formation.**
 - b. It will make India independent of foreign imports and essential goods.
 - c. India will be able to exercise more autonomy in other areas and protect itself from bargaining of western countries.
3. **Nehru on Agrarian reforms –** Nehru was not against agrarian reforms but he believed that Industrialisation will create more demand for agricultural goods and Industrialisation will provide fertilizers and equipment for agriculture to grow.
4. **Nehru on Planning –**he was highly influenced by the success of USSR and believed in state led planning, despite the fact that centralised planning goes against the spirit of federalism.
5. **Nehru also gave importance to small scale industries.** Since heavy industries require heavy investment and return is slow, so small scale industries will be promoted.
6. **Private sector is expected to work as a junior partner** and within the framework of aims of planning to create **a balanced and inclusive development** and **stop the concentration** of wealth in few hands.

7. **Administered price and rationing on consumer and necessary goods** - Nehru knew that the thrust on basic industries will create shortage of consumer goods. Hence, he suggested physical control and fiscal control means administering pricing and rationing.
8. Nehru also supported **promotion of Science and Technology**

Achievements:

1. **Decreases in import because of focus in Industrial production**
 - a. India went from a situation **where 90 percent of its industrial goods were imported, to halving that in 1960**, and having only **9 percent of its goods come from abroad in 1974**.
2. **Planning** was another key ingredient of the Nehruvian Socialist economy.
 - a. Successive 5-year plans witnessed that India's **GDP growth increase from a paltry 0.72 percent in 1947, to over 4 percent annually in the following years**.
3. **Achievements in Scientific education and research.**
 - a. The national expenditure on scientific research also **increased from Rs 10 million in 1949, to Rs 4.5 billion in 1977**. In this same period, India's scientific and technical manpower would increase from 190,000 to 2.32 million people.
4. **Increased Base of PSU's became harbinger of inclusive and Balanced regional developments.**
 - a. Most of the Maharatnas of today, be it steel giant SAIL, petroleum and gas companies Indian Oil and ONGC, heavy engineering firm BHEL **came into existence in the first 25 years** since India became a republic.
5. **Agriculture growth and Green revolution as a result of Ground work by Nehru**
 - a. The combination of public investment and cooperative land reforms saw agriculture grow annually by 3 percent from 1951 to 1965. Even the Green Revolution, which for the first time in decades would give India a food surplus, would not have been possible in the '70s, had it not been for the **groundwork laid by Nehru**.
6. During Nehru's three 5-year plans (1951–1965), India's industrial sector would grow at 7 percent a year, the number of consumer-goods industries would increase by 70 percent, the production of intermediate goods would quadruple, and the output of capital goods would increase tenfold.
7. **Educational reforms**
 - a. The school and higher education system in India came to life in the first 25 years.
 - b. While on the one hand, the **UGC established in 1953** went on to create a network of central and private universities, **the NCERT established in 1961** helped develop a common school education system.
 - c. Establishment of IIT's - IIT Kanpur established 1959 when Nehru was the prime minister, along with Kharagpur (1950), Bombay (1958), Madras (1959) and Delhi (1961).
 - d. **Medical and agriculture** Work on setting up the Indian Institutes of Management (IIMs), state agricultural universities, were initiated by Nehru. AIIMS Delhi which serves as a premier institute for training doctors and nurses and ISRO were established in the first 25 years.

Drawbacks

1. **Low GDP growth rate, poverty and unemployment:** While Nehru's focus on building institutes and industries transformed India, the era was also marked by low GDP and poverty.
 - a. Between 1947 and 1964, the compounded annual growth rate (CAGR) for real GDP growth per capita for India was just 1.68 per cent, behind the Philippines or Malaysia. Even Burma, which was looked at as dirt-poor, had reported a higher CAGR of 3.16 per cent between 1950 and 1964.
2. **Failure on removal of poverty –**
 - a. India also made very **slow progress in sustained poverty alleviation** until the mid-1970s.

3. Decreased exports were another area where India performed badly during the Nehru era.
4. **Neglect of primary education** - Also, the primary education sector was severely neglected during the Nehru era.
 - a. **B.V. Krishnamurthi**, had pointed out that the priorities of the Second Five-Year Plan undergirded by the Mahalanobis model were skewed. He castigated it for a bias toward "river-valley projects," reflected in the paltry sums allocated to education.
5. **Neglect of agriculture** - Two successive years of **famine, 1964–65** and **1965–66**, followed. The third FYP performed dismally in its first two years.
6. **Vakil and Brahmananda** argued that the Mahalanobis model neglected wage goods, being those consumed by workers who were the majority of the country.
 - **Agricultural crisis** - The agricultural sector had not been able to keep pace with the rising demand for foodgrains and inflation was rising. From the late 1950s till the late 1960s, India relied on food aid from the US under the USA's Public Law 480, otherwise known as PL480.
 - **Growth of the License –Permit Raj** The state led Industrialisation and Dominance of the bureaucracy led to the Red Tapism and Inspector raj with little growth for the small private parties.
 - **Balance of payment crisis** - Over the time due to drawbacks of the state led model became visible and India came under the financial crisis. Country was left with the foreign exchange which could pay the bill of imports only for a week. The credit of India was in question resulting into Sovereign debt crisis.

Role of planning and public sector

Planning is the feature of socialist countries. The idea of planning is to determine the priorities and go for the best possible use of resources. The objective of planning was higher growth and balanced development. Planning has resulted into state achieving the commanding heights in the economy.

The basic objectives of India's planning are **growth, modernisation, self-reliance and social justice**

1. **Growth:** The first and the foremost objective of Indian plans is the growth of the economy. In a country with very low per capita income, stepping up of the production is obviously the basic thing to do.
2. **Modernisation** - Another objective is to modernise the economy. This means such structural and institutional changes in the economic activities that can change the feudal and colonial economy, into a progressive and independent economy.
3. **Self-Reliance:** The third major objective is to make the economy self-reliant. This is to ensure a more equal relationship with the world economy, and to reduce our vulnerability to international pressures and disturbances. One of the elements of self-reliance is a
 - a. **Reduction and ultimate elimination of dependence on imports** for certain critical commodities. This implies **import substitution** i.e. producing the same commodities at home.
 - b. Another includes **expansion and diversification of exports**, so that we are able to pay for imports from our own earnings of foreign exchange and provide stability in the foreign exchange earnings.
4. **Social Justice:** This objective is to render social justice to the poor of the country. This has two principal dimensions.

- a. One, it is aimed at improving the living standards of the weaker sections of the population such as landless agricultural labourers, artisans, members of Scheduled Castes and Scheduled Tribes etc.
- b. Second is the reduction in the inequalities in the asset-distribution, in particular in the rural areas where land, the principal source of living for large many, is very unevenly distributed.

Achievements of Planning in India

1. Achievements on Indicators of economic progress

- a. **GDP growth rate** We have improved during the planning period from the low equilibrium trap to the Growth rate of 4.4 % from the 1950-1990.
- b. **Savings** – Saving as a proportion of GDP risen from the 10.4 percent in 1950-51 to 25.6 percent in 1995-96.
- c. The process of **industrialisation** progressed significantly during the planning period.

2. Achievements on social Indicators –

- a. **Life expectancy** of an average Indian was 33 years in 1951 which rose to 61 years in 1995.
- b. **Birth Rate and death rate** –Birth rate which was 39.9 per thousand in 1950-51 declined to 28.3 in 1995-96. The death rate dropped from the 27.4 per thousand to 9.0 in 1995.

3. Growth of economic Infrastructure

- a. There has been massive development in the creation of infrastructure like **Roads and railways. At the time of independence only 4 lakh Km roads were there which increased to 24 lakh km in 1996-97.**

4. Development of Basic and Capital Good Industries.

- a. With the Mahalanobis plan and other Five year plans there has been massive development with respect to the heavy Industries like Iron and Steel Industries.

Failures of Planning in India

1. **Failure to reduce inequality** – There has not been the distribution of wealth as expected from the planning over the time in India.
 - a. Between 1950- 51 and 1995-96 the per capita income has risen by 1.7 percent per annum. But even this small increase is unequally distributed. Studies indicate that the small gains of development over the years have not been equally distributed among all sections of the society.
2. **Problem of Unemployment** – There has been the consistent and even rising level of unemployment since the planning. Developmental plans in India were not adequate enough to absorb the labour force in the country.
3. **Neglect of agriculture, small and marginal farmers and redistribution of Land** - Though there have been some positive efforts and impacts in states like Kerala and west Bengal but it has to be admitted that progress of Land reform and development of the agriculture sector has not been at par with the expectations of the planning period.
4. **Regional Imbalance** – The planning in India created large scale regional imbalance. Over the year's inequalities among the various states and regions widened rather than being reduced. Because of the political and other factors, the establishment of the Industries have been skewed.
5. **Failure of Public sector enterprises** PSU's were the major service providers. Public sector with the exceptions of few PSU's started showing the weakness of the model. It developed certain structural problems like overmanning, low work ethics, low capacity utilisation, excessive expenditure, fiscal deficit, Absence of rational pricing policy and negative rate of return.
6. **Growth of the License –Permit Raj and Bureaucratisation** - Bureaucracy was made the main pillar of the planning which resulted into the Red Tapism and license permit Raj.

As highlighted by **Sukhamoy Chakraborty** – Planning in India looks only good on paper and they are rarely good in implementation.

Land Reforms

What is land reform

Land Reforms have different meaning in different countries. In case of India, Land Reforms meant institutional reforms (state led) aiming at addressing the concentration of wealth and giving land to landless.

Philosophy of Land reform

Land reforms is Based on **socialistic idea of redistributive justice**.

Objective of Land reforms in India

1. **Economic growth**: Productivity in agriculture
2. Ensuring **distributive justice** & establish egalitarian society
3. It will generate income that will increase demand for consumer goods and will support **industrialization**.
4. One of the objective of freedom movement was to **give land to tiller**.
5. **Ensuring food security and self-sufficiency**- Access to cultivable agricultural lands, primarily food lands, can substantially shield poor households from high food prices at the open markets.

Methods of Land reforms

1. Top-down approach where central govt. and state govt. make laws.
2. Reforms from below:
 - a. Bhoodan movement and Gramdan movement
 - b. Radical land grants model - Telangana and Tebhaga movement where land was snatched.
3. Mixed model - mobilization from below (by left in WB & Kerala and controlled from above where they were legitimized by state govt.).

Theories or option for Land reforms

1. **Communist** – They believe in **forceful acquisition and redistribution** of land
2. **Productionist** – they believe in **higher investment** in agriculture to increase the production and productivity, spill over effect of that will get reflected at lower level.
3. **Institutionalist** – Institutionalists believe in the **evolutionary changes** like Land reforms, providing institutional credit and development of co-operatives. India adopted this model considering it to be the most suitable because of the democratic nature of the state and socialistic pattern.

Types of Land Reforms

1. **Abolition of Intermediaries**:
 - Abolition of Zamindari, Mahalwari and Ryotwari systems. These systems burdened tenants with high rent. They could not invest in agriculture and were subjected to various types of exploitation. Until 1972, all states passed Zamindari abolition act, Zamindari abolition provided compensation to owners. Task was impacted because of judiciary. Right to property was fundamental right. In absence of just compensation, acts were challenged in court of law. However, govt. has been successful in abolishing intermediaries.

- According to govt. 57.7 lakh hectare was distributed. It helped the tenants. However, large no. of persons was in sharecropping. Sharecroppers didn't get any occupancy rights. Objective of land to tillers was not fulfilled. Intermediaries were abolished but rent receiving class continued. Zamindars and landowners manipulated loopholes, huge amount of Benami Transactions took place.
2. **Tenancy Reforms:** Objective was to settle fair rent & Security of tenure.
 - Maximum ceiling on rent was 1/4th of the produce.
 - Security of tenure
 - Ownership to tenants.
 - Tenancy reforms were successful in states like WB, J&K, Assam, Maharashtra, Gujarat, Punjab and Rajasthan. Weakness remained sharecroppers couldn't get benefits. Most of the cultivators could not produce papers.
 3. **Land Ceiling:** Limit on land holding was fixed. Govt. has taken surplus land. A part of surplus land was distributed but still land acquired remains with govt. Around 28 lakh acre land couldn't be distributed. 16 lakh acre land govt. kept for public purposes. 44 lakh acre land was distributed. Land distributed was of inferior quality. It couldn't be cultivated. Govt. didn't provide support system so that land could be used. In land ceilings also, loopholes were manipulated.
 4. **Consolidation of Land & Cooperative farming:** Very limited area of land could come under cooperative farming:

Scholar's view on Land Reforms

ML Dantwala: Land reforms were in right direction but due to lack of implementation, results have not been satisfactory.

Joshi: It is true that land reforms could not assume revolutionary dimensions like China or dramatic changes like in Japan but it was not a total jigsaw. There are changes in agriculture structure which often remains unnoticed because of our biased view.

GS Bhalla: it abolished absentee landlord. In many cases, tenants were actually evicted in the name of self-cultivation.



Dr. G S Bhalla

Daniel Thornier

India is the most interesting case study of land reforms. He believed that Lack of Land records was the reason for the failure



Atul Kohli: his view is that His view is chances of success increase if ruling party is ideologically committed. He has analysed land reforms under CPI (M) in WB, under congress in Karnataka and Janata Party in UP. CPI (M) was committed for land reforms. In Karnataka, under Devaraj Urs, land reforms took place because he wanted to build an alternative coalition against traditional elites. In UP, there was no commitment.



Sudipto Kaviraj

- State of India represents the interest of the bourgeoisie class so steps like Land reforms can never be successful.



Failure of Land reforms

Land reforms should have been pursued honestly. Without redistributive justice, we can't achieve balanced and sustainable growth. Land reforms have not been successful because:

1. There was a lack of political will.
2. Domination of dominant caste in politics
3. Bureaucratic apathy and corruption
4. Lack of organised peasant movement.
5. Technical issues like lack of land records. Though 9th schedule has resulted into protection of land reforms act but millions of cases remain pending.

Conclusion

- Hamza Alavi's theory of overdeveloped state and Gunnar Myrdal's theory of India as a soft state offer similar explanations for failure of land reforms in South Asia

Green revolution

GR is based on idea of capitalism. It is a capital intensive mode of production. It is a use of technology, HYV (High yielded varieties) seeds, fertilizers and overall objective of increased production.

Introduction in India

It was introduced to address food scarcity in the country and to make country self-sufficient in production of food. It was introduced with the support of USA. It was introduced in 1961 as **intensive agriculture development program**. It was introduced in those regions for eg; Punjab, where it was easier to increase the quantity of production. It did result into India becoming self-sufficient in production of food crops. However, according to the critics it came at huge social, political and environmental cost.

Positives of Green revolution

It made India **self-sufficient in food grain production**, since there is substantial increase in output, it is treated as a revolution, agricultural growth increased at the rate of 3-5% per annum which was encouraging rate of growth considering colonial period.

The Green Revolution changed India's status from a food-deficient country to one of the world's leading agricultural nations.

GS Bhalla has highlighted the positives Impacts of the Green revolution he held that

- Agriculture wages increased exponentially and the total income increased 4 times.
- It increased the bargaining power of the farmers.

Negative Impacts of Green revolution

1. **In rural areas it increased the gap b/w rich and poor.** Small tenants took loan and lost their lands and became landless.
2. **The former landlords became more interested in personal cultivation.** They became benefactors of govt. policies like MSP to incentivise production.
3. **Led to the rise of rich farmer's movements** which got better deal for their produce and input subsidies.

4. **Inter-state migration** for e.g. migration of labour from Bihar to Punjab resulting into displacement of the local labourers which further created exploitation of migrant labour
5. Food items remain out of the reach of poor.
6. **It resulted into the inflation of food items.** It increased production but not the purchasing power and as poor lost their lands.
7. It led to the **destruction of traditional knowledge.**
8. **Rise of regional aspirations and growth of regional parties** It has also increased the regionalist aspiration. Another impact was the rise of regional parties, coalition politics, increase in corruption, bargaining defections.
9. **GR also made agriculture dependent on market.**
10. It also impacted into the **feminisation of agricultural labour force**

Sarla Grewal (Cabinet Secretary) has analysed that

- **There has been no increase in real wages after the green revolution**
- **It led to Inflation in food grains.**
- **There was actual fall in living standard**

Francis Frankel in her article titled "**Rural politics**, economic gains and political costs" has highlighted the fact that GR has rolled back the achievements of land reforms.



Vandana Shiva in her book "**Violence of Green revolution**" highlights the increasing social inequality and phenomena of de-peasantization. She Shows the negative effects of GR on society as well as nature

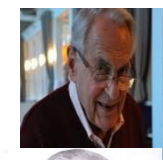


Usha Patnaik has highlighted the politics and economic consequences and links it with the rise of secessionism in the country. Focus on poor distributive aspect giving rise to frustration and unrest.



Rudolph & Rudolph has done the political analysis of the green revolutions

- He mentions the phenomena of the **rise of "bullock capitalists"** which later on led to the rise of regional parties.
- It Strengthened the role of caste in politics and dominant caste politics.

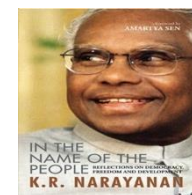


VKRV Rao

- Gains of green revolution came at significant social and political cost.
- Increased inequality
- Rural indebtedness increased because of the small farmers taking loan for machinery and equipment but not able to pay.
- It Reversed the process of land reform with benefit accruing only to the large farmers.



According to Former President **KR Narayanan** if we will neglect the task of land reform it will give rise to counter revolution which already started in rural areas. Green revolution should not end up giving rise to red revolution.



Green revolution 2.0

The first green revolution was introduced in the context of **food crisis** and severe scarcity of food in the country which was successful to some extent in achieving the objective of food security and making India **self-sufficient** in the foodgrains production.

But its negative impacts also have been severe as discussed above. The second green revolution aims at creating **sustainable agriculture** by the use of technological advancement and removing the drawbacks of 1st green revolution.

Need of second Green revolution

1. **Regional balance** – The first green revolution was limited to certain areas like Punjab and Western Uttar Pradesh. It was not much successful in other areas.
 - a. For this purpose, there is scheme called **Bringing green revolution in Eastern India (BGREI)** Which will include the states of Assam, Bihar, Jharkhand, Odisha, West Bengal and eastern Uttar Pradesh.
 - b. BGREI is about bringing the benefits to these states which were largely limited to certain areas.
 - c. It is flagship scheme under the Rashtriya Krishi Vikas Yojana (RKVY).
2. **To address the environmental issues** – Although the green revolution has made us self-sufficient in food grains but there have been negative consequences on environment. Scholars' like **Vandana Shiva** has highlighted the negative consequences of the First green revolution on environment which necessitates the 2nd Green revolution.

Objectives of the Green revolution 2.0

- Improvement in crop productivity
- Improvement in livestock productivity
- Resource use efficiency or saving in cost of production
- Increase in cropping intensity
- Diversification towards high value crops
- Improvement in real prices received by farmers

Strategies of the Green revolution 2.0

1. Adopting a demand driven approach for efficient monetisation of farm produces and to synchronize the production activities in agriculture and allied services
2. Improving and optimizing input delivery mechanism and overall input efficiency (technologies, irrigations methods, mechanisation, Integrated Pest Management (IPM), integrated nutrient management, farm extension services, adaptation to climate change, integrated agro-logistic systems, integrated farming system approach, etc.)
3. Offering institutional credit support at the individual and cluster levels.
4. **Promoting Sustainable Agriculture like**
 - a. Climate resilient agriculture
 - b. Rainfed agriculture
 - c. Conservation agriculture
 - d. Ecology farming
 - e. Watershed management system
 - f. Integrated farming system
 - g. Organic farming
 - h. Agro climate regional planning

How to make the Green revolution 2.0 Successful?

1. **Use of new technologies** – Like the Use of Artificial intelligence and Precision farming to increase the production and productivity of agriculture.

- a. Data driven and mobile based application for farmers.
 - b. For example, use of data for the Soil health card scheme for better selection of Inputs like seeds and fertilisers.
2. Enhancing **agricultural research, extension services and education** in the eastern region to increase the production and productivity as well as mitigation and adaptation for the climate changes.
 3. **Enhancing Production through Productivity**-- to achieve & sustain higher production out of less and release land and water resources to diversify into higher value farming for enhanced income Farm-Linked Activities- Including secondary and tertiary sector activity of KVIC and MSME for promoting near farm and off-farm income generating opportunities
 4. **Structural and Governance Reform** in Agriculture including building a database of farmers, facilitating farmer & produce mobilization, institutional mechanism at all levels for coordination and convergence, digital monitoring dashboard at all level for seamless & real time monitoring of field delivery, utilizing PRI.

Conclusion

Green Revolution has been considered as a major step towards making the agriculture a **profitable, viable and sustainable enterprise**. It is also a step towards the transition **from food security to nutrition security extractive production system to sustainable production system** and from a mere **green revolution to Income revolution** for the farmer being good for farmers, consumers and planet.

Liberalisation of Indian economy

India was known as '**caged tiger**'. It was predicted that if cage is broken, then India will run at the speed free tiger. It showed the potential of Indian economy which has been caged by populist policies. It is unfortunate that India took so long to make structural adjustments. India waited for crisis to happen. One of the major situational factor which accelerated the crisis was Gulf War and collapse of USSR.

Background of economic liberalisation in India

India's sluggish economic growth has been pejoratively described as the "**Hindu rate of growth**". Industrial modernizations and the green revolution could muster a mere 3.4% average annual rate of growth between 1956 and 1974, at a time when many economies of Asia had boomed. Economic growth accelerated to a rate higher than 5% between 1975 and 1990 and furthermore to over 6%, after 1992.

The initial steps were taken in the 1980s. Rajiv Gandhi had initiated the New Economic Policy, but while it tried liberalisation, it did not challenge the fundamental assumption of the state's role. For example, it tried to replace physical controls with financial controls but did not challenge why controls were needed. It tried to reform the PSUs by MOUs but did not ask why state ownership was required at all. But the reforms really began in 1991, in the backdrop of the macro economic crisis.

Reasons for the liberalisation of the economy

1. **Balance of Payments (BOP) crisis**, where its foreign exchange reserves were just adequate to finance 15 days of imports. There were many factors that led to the BOP crisis.
2. **Fiscal Deficit**: The fiscal deficit during 1990-91 was around 8.4% of GDP.

3. **Gulf War I:** In 1990-91, the situation was aggravated by the rise in the price of oil due to Iraq's invasion of Kuwait.
4. **Rise in Prices:** The inflation rate increased from 6.7% to 16.7% due to a rapid increase in money supply and the country's economic position became worse
5. **Collapse of the Soviet Union** which was a major trading partner
6. All factors combined to trigger lowering of India's credit rating for both short and long term borrowing
7. Reforms in India have been **forced by external donor institutions** known structural Adjustment programmes imposed as **conditionalities by IMF** in exchange of providing the funds to deal with the BoP crisis.

Components of the Liberalisation of Indian economy

The Finance Minister in his Budget Speech outlined the need for reforms as 'Neither the govt. nor the economy can live beyond its means year after year.' The agenda for reform included fiscal consolidation and industrial and financial sector reforms.

1. **Industrial Policy Reforms**

- a. The New Industrial Policy was announced on July 24, 1991
- b. Abolished the requirement of obtaining license in all except 5 industries. These were narcotics, drugs and pharma, hazardous chemicals and industrial explosives, electronics and aeronautics
- c. All industries were opened to the private sector except defence, atomic energy and railways. Even defence has been opened up now.
- d. List of items reserved for small scale also substantially pruned and less than 20 items now reserved.
- e. FDI allowed under the automatic route in most sectors.
- f. Threshold of 40% on foreign equity investment was abolished.
- g. Automatic approval for equity investment upto 51% by RBI
- h. Shift to a negative list based system.
- i. Board for Industrial and Financial Reconstruction(BIFR) for sick PSUs.
- j. Repeal of prior permission for mergers and acquisitions removed under the MRTP act.




2. **Trade Policy reforms**

- a. Import licensing system was dismantled
- b. Non-tariff barriers phased out for all except consumer goods.
- c. Tariffs substantially reduced. Peak of 150% in 1990 to peak of 5% in non-agri.

3. **Financial sector reforms**

- a. Current account convertibility in 1994
- b. Capital account partial convertibility
- c. More functional autonomy to banks, more banks opened, including foreign ones.
- d. Reduction of statutory pre-emption to release more funds for commercial lending
- e. Initiating prudential norms
- f. SEBI was given statutory power

Scholar's view on Liberalisation of Indian economy

1. According to **Amartya Sen**, contrary to prediction, the sprint of tiger was not as it should have been. There is lack of consensus among scholars whether external factors or internal factors led to the change in economic policy. There is also a debate on the consequences of new model. He has concerns like
 - a. **Agricultural stagnation**
 - b. Manufacturing sector bypassed
 - c. Social indicators have shown bad performances.
 - d. Hunger Amidst Plenty
- 
2. According to **Bimal Jalan**- PSUs were like old family silver where the family had to spend to keep it shining
 
 3. **Atul Kohli** - He is critic of the liberalisation of economic reforms and analysed the political fallouts of economic reforms
 - a. **Negative impact**
 - i. Consensus on LPG policy of economic - has made ideological differences redundant and it led to the mobilisation on the lines of identities like religion and caste
 - ii. It has led to crisis of Governability.
 - iii. Democracy has widened but the ethos has not deepened because of the growing inequality and concentration of wealth.
 - b. **Positive impacts** like because of the external pressure from the IMF and world bank for good governance
 - i. It led to the **introduction of measures like 73rd and 74th amendment** for the grassroots democracy.
 - ii. **Impact on Federalism** – The liberalisation has given rise to the competitive federalism. Poor states have been facing the bad consequences because of growing competitiveness
 2. **Montek Singh Ahluwalia** in his article – **Economic reforms – a retrospective view**
 - a. It led to large unhealthy, uneducated and unskilled population.
 - b. It led to Jobless growth
 - c. It put Indian economy in Income trap.
 3. **Granville Austin** – social revolution has not gone far enough. Granville Austin suggests that India requires an inclusive growth agenda.

Progress Since 1991

1. **The growth of industries and services increased**, 2000s marked the inflection point for growth trajectory, with average GDP growth of about 9% between 2004-08, and all subsectors also accelerating. Then slowdown due to financial crisis and growth slowed down to 7.8% for 2008-11.
2. **As per Pulin Nayak**, a key reason for the high growth rate was the high rate of savings and Gross capital formation that India had since late 1990s.
3. **This high growth was led by the service sector**, with its share in GDP being 55%. The share of agro in GDP declined from 55% in 1950 to 13.7% in 2013. This meant that the share of industry,

mostly manufacturing, remained constant at 20%. This has been behind the phenomenon of jobless growth.

4. **While the share of industry remained stagnant**, there was structural transformation within manufacturing sector. During 2004-2009, while GVA grew at 20%, employment increased only 7.5%
5. **India has also become more open**. Share of external trade increased from 23% of GDP in 1990s to 50% in 2009-2011. **As Mohanty argues**, with increasing openness, India's trade cycles were becoming more synchronised with global cycles.
6. Net capital inflows also doubled from 2.2% in 1990s to 4.6% in 2004-08.
7. Outward FDI inflows have also increased sharply to 70% during 2010-11 from 19% in 2000
8. Fiscal deficit also moderated sharply during 2004-08, which also coincided with a rule based fiscal process under FRBM.
9. The high growth was achieved during a period of price stability as WPI fell to 5.5% in this period.
10. The Economic survey argues that the wealth creation in the economy increased immensely with the LPG. The sectors that witnessed greater liberalisation saw greater expansion. This is key as the market economy is based on the fundamental principle that optimal allocation occurs when the consumers are free to choose the goods they want. Liberalisation facilitated that choice
11. **Extent of PSUs**. Contrary to the myth that India has large PSUs, India has significantly rolled back public sector including in sectors like civil aviation, telecom and financial services. However, China continues with the policy of state PSUs.
12. **Government Expenditure**-Contrary to the opinion that there is over bloated expenditure by govt. in India, the expenditure is not more than what is normal for a country in accordance to the level of development.

30 years of economic reforms

1. India's growth Miracle has attracted worldwide attention now it boasts of being the **Sixth largest economy and the 2nd largest economy** in Terms of Purchasing Power parity. The growth of India has been pursuant to the wide ranging economic reforms introduced in the early 1990's.
2. Many other developing countries intensified liberalization during this period but were unable to experience a similar spurt in their economic growth. One distinctive feature of Indian liberalisation experience is the gradual and calibrated manner in which reforms were introduced, especially with respect to external liberalization be it in the financial, agricultural or manufacturing sector.
3. On the risk of being categorised as the "Reluctant globalizer" India embarked on the path of slow and steady liberalization.
4. India, once cruelly mocked for its "Hindu rate of growth" -- per capita GDP growth of just over 1 percent a year -- is now the fastest-growing large economy in the world. Its economic landscape has been altered completely; it's no longer the agrarian economy it was in 1991.

Criticism and challenges

Raghuram Rajan held that India continues to under-perform. It may be growing faster than its peers, but as central bank governor Raghuram Rajan has pointed out, that amounts to little more than being a "one-eyed king" in the land of the blind. There is various underachievement:



1. **Abysmal reforms in agriculture sector** – The contribution of agriculture to the GDP has steadily declined since 1991. Which has been taken over by the Service and manufacturing sector.

2. **Banking Crisis** – India is facing the banking crisis in terms of large NPA's with the public sector banks, Regulatory failures, twin balance sheet problem, thanks to poor lending by the state-controlled banks which necessitated steps like PCA norms, merger and privatisation.
3. **Lack of genuine structural reforms** - Had genuine structural reform been undertaken then, Indian industry would have had the flexibility and dynamism needed to be competitive in today's world.
4. **Leapfrogging leading to unemployment** –Growth of service sector exponentially and declining contribution of the agriculture which employs large population made India a case of paradoxical growth struggling to employ the millions who join its workforce yearly.

Concluding line

Economic achievement after the liberalisation is remarkable as it has been achieved under extremely competitive democratic system. It is achieved even in a situation when govt. policy making is severely constrained [SC activism]. However, survey mentions about ineffective redistribution, welfare schemes suffer from considerable miscalculations.

Caste, Religion and Ethnicity in Indian Politics

Caste, Religion and Ethnicity in Indian Politics

UPSC Syllabus - Caste, Religion and Ethnicity in Indian Politics.

PYQ on this topic

2021	Examine how caste as a social category is becoming a political category in the democratic politics of India.
2020	Examine the role of religion in Indian electoral politics in contemporary times.
2019	Development has overshadowed the influence of caste in electoral behaviour in recent elections. Discuss.
2018	Critically examine the ethnic conflicts in North-East India.
2017	Religion is still an important factor in Indian politics. Discuss.
2016	Cultural and Regional differences are the enduring bases on which politics is played out in India.
2016	Comment on the emergence of Backward classes in the Indian Politics.
2014	Comment on: Relation between ethnicity and democracy in India.
2013	Explain the phenomenon of ethnic politics in India in recent times.
2011	Indian politics has influenced caste and caste has influenced Indian politics.
2011	Secularism in Indian politics is a myth.

Identity politics

Identity politics is a political approach wherein people of a particular gender, religion, race, caste and social background or other identifying factors, **develop political agendas** that are based upon these identities.

Identity politics refers to political positions based on the interests and perspectives of social groups with which people identify. Identity politics. It includes the ways in which people's politics may be shaped by aspects of their identity.

Identity politics seems to be experiencing a surge in recent times, even in developed countries, the movements like **black lives matter** show the continued relevance of identity politics.

Critics of identity politics claim that it only deepens the divides that exist between different groups in society-black versus white, straight versus gay, Jew versus Arab, Sunni versus Shia, Protestant versus Catholic, and so on. Thus, divisive and detrimental to both development and integrity of the nation.

Identity politics in India

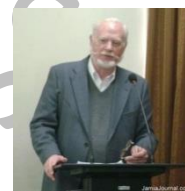
Since India is a prismatic society identity politics is bound to play the role, though Bipan Chandra and **Atul Kohli** talk about the choice of elites, not only India is a prismatic society India represent a continuity in culture and tradition, the role of culture, religion is evident in electoral behaviour, composition of political parties, dominance of non-associational pressure groups.

Atul Kohli held that **Democracy in traditional society leads to mobilisation on ethnic lines**. The traditional elites fearful of losing their privilege try to mobilise people on ethnic lines.



James Manor in his book “ethnic politics in India” suggests that there can be four ways to describe politics of identity in India.

- Religion
- Language
- Race
- Caste.



Rajni Kothari also held that in traditional society like India, mobilisation of the people on identity like religion and caste is natural.



Role of caste in Indian Politics

What is caste

Castes in Indian society refer to a **social group** where **membership is decided by birth**. Members of such local groups are mostly **endogamous**, i.e. they tend to enter into marital relationships among themselves. They often have **related political preferences**.

Sociological explanation of caste / Caste-class debate

Louis Dumont has described caste system as an Indian model of social stratification which is opposite to the western model of stratification based on class.



Comparison between caste and class.

- In class, the status is determined by merit or worth. In caste, it is determined by birth.
- Economic criteria is used when people are classified in different classes. The criteria of purity and pollution is used in identifying the status of a person in the caste system.
- Class system is open and any person can jump from lower class to higher class whereas the Caste system is rigid, it cannot be jumped.

M.N. Srinivas has challenged Louis Dumont’s perspective.

- According to him, Dumont’s approach is too textual. In practice, there is not much difference in western and Indian tradition. Class is as static as caste. Class is as based on birth as caste.
- M. N. Srinivas held that the caste system was not entirely rigid. Mobility was permitted.
- He coined the term ‘**Sanskritization**’
 - It means persons of lower caste adopted the practises of Brahmins e.g. Stopped eating non-vegetarian food, thus reducing the pollution and have been elevated to the higher status.
 - However once reservation have been introduced, they have been de-Sanskrit zed.
- M.N. Srinivas has given the **concept of ‘dominant caste**



- He held that the term upper caste is misleading. We have to understand the role of the dominant caste in India. Dominant caste denotes the castes holding economic power, social power and political power. In most of the situations, upper castes like Brahmins and Kshatriyas are not the dominant castes.
- There are three **characteristics which make a caste, dominant caste**. There may be regional variations.
 - They are land owners
 - Numerical majority
 - social status
- For **example** - Yadavs are the dominant caste in UP and Bihar, Jats are the dominant castes in Haryana and western UP, Marathas are dominant caste in Maharashtra, Reddis, Kammas and Kapus in Andhra Pradesh, Lingayats and Vokkaligas in Karnataka.

Caste in Indian Politics

According to Christophe Jaffrelot, caste forms the **mosaic of Indian politics**. Caste does not differ from religion and both are examples of identity politics.

He also held that “**Indians does not cast their vote rather vote their caste**”

Caste continues to play a prominent role in elections and formation of political parties. Every political party, specially the regional parties are the parties of a particular caste.

The phenomenon of politicisation of caste has been described by **Rudolph and Rudolph** in the book “**Explaining Indian democracy** as ‘**modernization of the tradition**’ and ‘**traditionalization of modernity**’.

How the politicisation of the caste happened in India

1. **Secularisation**

- It shows how politics has changed the nature of caste. Earlier, caste was important for ritual purposes now caste is important for secular benefits like employment, education etc.

2. **Integration**

- Caste is normally understood as a disintegrative force, but democracy has compelled different castes to integrate and form alliances for their political aspirations.

3. **Consciousness**

- When caste enters into politics, it develops into a new consciousness. The consciousness gets politicised. It results in the lower castes becoming aware of their importance.
- Hence they themselves go for autonomous mobilisation in politics e.g. Initially Dalits were led by Congress but gradually they realised their importance and formed their own party for example -BSP.

Why there exist the role of caste in Indian politics?

1. **Rajni Kothari** has examined the reason behind the role of caste in Indian politics he analysed that
 - In traditional society like India mobilisation of the people on identity lines like religion and caste is natural.
2. **MN Srinivas** held that
 - Caste is present in the minds of Indians at a subconscious level. So it is difficult to think that it will not play a role in Indian politics.
3. **Kanchan Chandra**
 - According to her, when political patronage is based on caste, how can we think of caste free politics.

Evolution of caste Politics in India

1. **Ancient times** It has been present since ancient times. Hinduism denoted the alliance of Brahmins and Kshatriyas, Buddhism denoted alliance of Vaisyas and Kshatriya
2. **British Era**
 - a. Britishers also promoted caste politics.
 - b. They conducted a caste survey.
 - c. Communal award aimed at giving separate electorate to the different castes e.g. Dalits. thus dividing Hindu society.
 - d. **Political parties during the national movement were parties of different caste**
 1. Congress was the party of Brahmin
 2. Justice party and D.K. were the parties of OBC
 3. the Republican party was the party of Dalits
3. **After independence**
 - a. The Indian constitution does not abolish caste. Maintains caste as a basis for distributive justice or affirmative action policies.
 - b. Various event post -independence like Linguistic reorganisation, Green revolution, Mandal commission etc. has strengthened the role of caste in Indian politics.
 - c. The beginning of coalition politics since 1989 show the increasing regionalization of Indian party system i.e. More and more regional parties are at the centre. Which means greater role of caste in Indian politics.
 - d. The role of caste in Indian politics is now known as **Mandalization of Indian politics**. We can categorise Indian society into three prominent groups
 - i. Upper castes.
 - ii. OBCs.
 - iii. Dalits.

Role of Caste politics in Democracy

- There is a lack of consensus among the scholars whether caste has strengthened Indian politics.
 - Some believe that caste has **strengthened Indian democracy** like
 1. Rajni Kothari
 2. Christophe Jaffrelot
 3. Yogendra Yadav
 4. Satish Deshpande
 - On the other hand, some **consider caste as a threat to democracy**
 1. Andre Beteille
 2. Ashutosh Varshney
 3. C.P. Bhambri

Politicisation of the caste as democratic upsurge

1. **Rajni Kothari-**
 - a. He gives the credit of success of Indian democracy to the caste.
 - b. Caste provided the basis for the mobilisation and integration of the people with democracy.
 - c. Absence of caste in other countries of the third world is actually responsible for the failure of democracy in these countries.
 - d. According to him, not only caste has impacted politics, politics has also impacted caste. A phenomenon called 'politicisation of caste'.
2. **Prof. Yogendra Yadav** suggests that the interaction between caste and politics has led to the 'democratic upsurge'. **Yogendra Yadav talks about**
 - a. **1st democratic upsurge in 60s** which symbolise OBCs coming out of Congress.
 - b. **2nd democratic upsurge in the 1990s** when Dalits left Congress and formed their own party.

- c. This shows that caste based mobilisation may ensure that the democracy of India does not remain just a topsoil.
3. **Lalita Chandrasekhar** in her articles “**emancipatory power of caste politics** suggest that caste based mobilisation has bridged the gaps between different sections of the society. It has dislodged certain castes which had dominance.
 4. **Christophe Jaffrelot** calls caste based mobilisation as India’s ‘**silent revolution**’. He held that the lower caste comprise more than two-thirds of the population and their representation in national politics is increasing. Jaffrelot argues that this trend constitutes a genuine "democratization" of India and that the social and economic effects of this "**silent revolution**"

Additional note

3rd Democratic upsurge

We are witnessing now the 3rd democratic upsurge There is turnaround among Dalits, OBCs and Muslims indicative of new upsurge. These communities feel that the promised fruits of second upsurge were denied to them. **They got identity, not empowerment.**

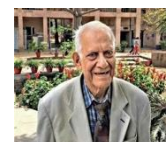
So, they **feel attracted to parties that offer them political and economic empowerment.** The first sign of discontentment was discernible soon after Mayawati’s successful social engineering in 2007. The Centre for the Study of Developing Societies (CSDS) data suggests Dalits, OBCs and Muslims started leaving parties they traditionally voted, moving to non-caste parties mainly BJP and Congress,

During the second democratic upsurge, the marginalised were moving towards caste parties in search of identity; **today, they are moving away from them for empowerment.**

Caste as a Weakening Force

1. **C.P. Bhambri –**

- a. According to him, caste politics is not good in the long term. He believes that caste politics leads to communalization. When one party uses caste, the other party will have to use religion.



2. **Ashutosh Varshney –Battles half won: India’s improbable democracy**

- a. Caste based mobilisation has not resulted in any concrete transformation in the distribution of power in the society. As far as elections are concerned, Indian democracy is a great success. However, democracy is not just elections. Indian democracy has not done well between elections. Now the battle should be for the deepening of democracy.



3. **Andre Beteille-** believe that constitutional and legal provisions led to the continuation of caste and its role in politics.

- a. The Indian constitution abolishes untouchability without abolishing caste.
- b. Leaders in post-independence India were thinking to achieve caste free India and communalism free India when the constitution itself mentions caste as a basis of public policy.



OBC politics in India

OBC in Indian politics

- Backward castes are the intermediate castes. They are most important factor in Indian politics because of their numerical strength. In the constitution, they are described as OBCs which distinguishes them from scheduled castes and scheduled tribes. If we go by Manusmriti, the castes which come in the category of Sudras are now called OBCs.
- **Marc Gallenter in his book “competing equalities: law and backward”** suggests that OBC is loose conception, which makes it keep on changing.
- OBC represents a large number of intermediate castes. Primarily peasants, farmers, cultivators, artisans. they are internally differentiated the status of some is more with respect to schedule castes.
- OBCs are the most important force, and have dominance in all fields. They are land owners; they are in political power. Most of the chief ministers in most of the states are also present in administration.

Satish Deshpande in his article “**The OBC primer of Indian politics**” suggests that Indian politics is to be read and interpreted with reference to the direction of OBC politics in India.



- OBC politics is the ‘heart of Indian politics’. OBCs form around 42% of the population which means around half billion people thus strategically unavoidable.
- They are going to be present in any alliance. State politics is nothing but OBC politics. The arrival of the coalition government.
- The union marks the influence of OBCs at national level. OBCs are in ‘thick of the caste’. It means they are going to determine the future of caste politics itself. Whether caste will become prominent or get diluted it will all depend on the choices made by OBCs.

Christophe Jaffrelot in his book “**The silent revolution**” has explained the rise of OBC politics in north and south India.

OBC politics in south and North

OBC politics in South	OBC politics in North

<ol style="list-style-type: none"> OBCs are more dominant, OBC politics is older and more mature. The composition of the society in the South is different from the composition in the North. In the South, the only upper caste has been Brahmins. Majority of the population is of OBCs. In South, leaders like Jyotiba Phule (Satyashodhak Samaj), EV Ramaswamy Nayakar (Self-Respect movement), Shri Narayan Guru (Sri Narayana Dharma Paripalana Yoga – SNDP), they were successful in strengthening the consciousness among OBCs. Because of the numerical strength, Brahmins were not in a position to counter the challenge. In the South, ethnicization took place. It has led to the assertion of Dravidian identity. Form separate party in south region. 	<ol style="list-style-type: none"> In North India, because of movements like Arya Samaj, Shuddhi movement, there has been greater influence of Vedic religion. In North, more than one upper caste and hence not so easy for backward to counter. In the North, backwards went for Sanskritization, thus Brahmanism continued. Instead of autonomous parties like DK (Dravid Khadga), OBCs in North remained the part of Congress for Long. (Hegemony of Brahmanism). Hence there is a late arrival of OBCs in the political scene in the North as an autonomous force. The increasing influence of OBCs is described as 'Mandalization' of Indian politics. OBC politics and demands revolve around reservation, hike in MSP in agriculture etc.
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Dalit Politics in India.

Dalit mobilization in India goes back to pre-independence times. It is an assertion of Dalits against their exploitation by upper castes or caste Hindus. The biggest contribution towards the politicisation of Dalits is of Ambedkar.

Within Dalits there had been 3 choices for their upliftment.

- Co-option.** Dalits to remain with Congress. e.g. Leaders like Babu Jagjeevan Ram preferred co-option. At present there is even a rightward shift symbolised by leaders like Ramvilas Paswan and Udit Raj. They believe that annihilation of caste is a utopia, hence to gain tangible benefits, it is better to work with the major parties.
- Autonomy.** Approach of Ambedkar. Ambedkar preferred a constitutional approach but Dalits should be an autonomous force. This approach is represented by Kanshi Ram, the founder of BSP. This section of Dalit leadership (Autonomous force) is on decline.
- Radicalism.** Radicalism among Dalits is inspired by Marxist ideas of struggle and revolution. Ambedkar had rejected the approach. Inspired by Black Panther's movement in USA, disappointed with the politics of co-option, certain sections of Dalits formed Dalit Panthers. In recent years, there is a revival of radicalism as symbolized by 'Elgar Parishad', '**Bhim Army**' led by Chandrashekhar Azad (Ravana).

Analysis of Dalit politics by **Pratap Bhanu Mehta**

In his recent article titled "**New dalit challenge**", written in context of Bhima-Koregoan incident, he suggests that the new generation of Dalit politics is reflecting profound changes.

- **No more satisfied with winning constitutional recognition.**
- **Rejection of 'managerial approach'**
 - **Managerial approach** - It is an upper caste strategy to co-opt Dalits in the symbolic order without any real shift of power. Managerial politics creates a class of beneficiaries to exhaust the question of social justice and diffuse the conflict. (e.g. Making Dalit speaker or president.)

- **Dalits are building counter Hegemony**-They are going beyond the politics of survival. They are challenging history. They are re-writing the history.
- According to Pratap Bhanu Mehta, the pressure of new Dalit imagination is colliding against the upper caste strategy of containment.

According to CP Bhabri, it is good that consciousness is increasing but Dalits should make alliances with the progressive forces otherwise they will limit the scope of their own struggle.

Caste as determinant of electoral behaviour - Recent trends

Study of **Abhijeet Banerjee**: In India, economic development is not the main basis of voting. People are driven by caste and religion.

According to **Yogendra Yadav**, voters in India are looking for **identity and politics**.

Alternative view

- The study produced by **Milan Vaishnav**, however, gives alternative view. According to the study, Indian voters have challenged the conventional view. Conventional view means good economics does not make good politics. It has been held that parochialism, populism and patronage play the role in Indian elections. But things are changing and People are voting on the economic basis as well. **Caste is one of the determinant but not the only determinant**.
- Views of **Christophe Jaffrelot** -Though traditionally caste has been the most importance variable, yet the last two elections show the erosion in the role of caste.
- Study by **Arvind Panagariya** also shows that economics is playing the role along with Caste. Hence, BJP has focused on development(VIKAS). In recent elections, BJP has created a new category. The category of economically weaker sections. It has certainly diluted the role of caste and allowed the emergence of class identity.

ETHNICITY IN INDIAN POLITICS

Ethnicity

Ethnicity can be defined as a sort of collective consciousness which can be due to common dissent, language, religion and history. Ethnicity is at the core of the idea of a nation. However, there can be multi ethnic nations e.g. European nations have been homogeneous, based on common language whereas India, USA are multi-ethnic nations.

Homogenous nations are cultural nations whereas multi-ethnic nations are 'political nations'. It means, they have to be built politically e.g. Indian constitution provided for

- Federalism
- Secularism
- Welfare state,

to convert India into a nation. The Indian model of nation building is called the '**salad bowl**' model. Whereas the US model is called as 'melting pot' model.

Ethnicity in India.

James Manor in his book "**ETHNIC POLITICS IN INDIA**" suggests that there can be four ways to describe ethnicity in India.

- Religion
- Language
- Race
- Caste.



According to **Prof. S D Muni**, ethnicity is not a challenge to territorial integrity because identity markers of Indians are not permanent. Their identities are fluid, and can be changed by the political class as per convenience. If sections of Indians can be united on the basis of language, the unity can be broken on the basis of caste or religion.



Reasons for Politics of Ethnicity in India

1. **Scholars like Rudolph and Rudolph, Atul Kohli, Rajni Kothari believe that coexistence of modernity and tradition is the main reason for the role of ethnicity in Indian Politics.** When democracy is introduced in a traditional society, ethnic basis of mobilisation is taken by the elites.
2. **Charles Taylor** – He looks at ethnic movements as assertions by marginalised communities.
3. **Rajni Kothari** also held that in traditional society like India mobilisation of the people of identity like religion and caste is natural
4. **Neera Chandoke** – The attempts by the state to homogenise the population, actions like ethnic mapping make people conscious of ethnic identities.
5. **Kanchan Chandra** in her book "**Why Ethnic party succeed**" suggests that political patronage in India is based on Ethnic head counts.
6. **Prof. S D Muni** – Ethnicity is not the choice of the people but preference of political parties.
7. Similar views are expressed by **Prof. Dipankar Gupta**, who says that ethnicity is not a popular passion but the preference of elites in India.

Democracy and ethnicity.

Atul Kohli, in his article "**Can democracies accommodate ethnic challenges**" has given the following observations.

1. Democracy in traditional society leads to mobilisation on ethnic lines. The traditional elites fearful of losing their privilege try to mobilise people on ethnic lines.
2. Ethnic challenges if not dealt properly can create threat to territorial integrity.
3. Democracy is one of the factors causing problems but democracy is the only solution also.
4. He has given comparative analysis of different leaders handling different ethnic movements.
 - A. He appreciates the way **Pandit Nehru** handled Tamil nationalism. The way Pandit Nehru handled it democratically has subsided the cessation trends permanently.
 - B. He also appreciates the democratic handling of movement in Assam and Mizoram by **Rajiv Gandhi**.
 - C. He is critical of the way **Indira Gandhi** handled the crisis in Punjab. She preferred coercive methods over accommodation.

Atul Kohli believes that such aspirations should be dealt democratically but it can happen only when

- The leader at the centre has **democratic attitude**.



- The ruling party at the centre is strong enough to take strong decisions. (If the position of the party is weak because of lack of sufficient majority, it may create challenges in handling such movements democratically.)

Paul Brass has given the four features of the approach of Indian state in addressing ethnic challenges in his book **Book: "Ethnicity and Nationalism."**



1. **Secessionist** demands are **rejected** out rightly most of the times.
2. The demands worded in religious terms are not tolerated, whereas demands worded in linguistic or developmental are accommodated. It is for this reason the ethnic movement in Punjab i.e. Khalistan Movement was religious in nature, but it was presented in linguistic form the demand for Punjabi Suba.
3. Government pays attention only when the **demand gets broad support.**
4. While accommodating the demands the views of other affected groups is also taken into account.

Sarkaria commission suggests that ethnic movements are never ethnic movements purely. There are overlapping political and economic aspirations. It suggests democratic decentralisation as the way forward.

Role of Religion in Indian politics

Religion and politics have always been together. Religion and politics is neither new nor unique to India. It is a universal phenomenon. There is considerable increase in use of religion since end of the cold war.

The end of ideologies led to clash of civilizations. Secular ideologies gave way to religious fundamentalism of all sorts around the world. Like any other -ism, communalism is also a political ideology. Scholars like **Samuel P Huntington** held that **The Clash of Civilizations** is a thesis that people's cultural and religious identities will be the primary source of conflict in the post-Cold War world.

The purpose of political ideology is the mobilisation of voters. When religion is used for mobilisation of voters, it is called **communalism**.

Communalism is a politics of identity. Identity politics is appealing to the passion or emotions of people. Identity politics is always violent.

Man is a social 'animal'. Man is dominated by passions, once passion is appealed, raised, they become uncontrollable. Reason will end and violence is bound to happen.

There is nothing wrong in being emotional or passionate about one's own religion, culture or language. However, it is wrong on part of elites to use people by appealing to issues for which people are emotional.

Evolution of communal politics in India

- **According to British historians**
 - Indians have always been communal.
 - The politics in the subcontinent has always been communal.
- **Marxist historian Romila Thapar**
 - She challenges the orientalist discourse suggesting that there was no communal violence on the subcontinent before the advent of the British, though there were local sectarian conflicts.

Evolution of communal politics during British

A. According to **Bipin Chandra**, communalism has developed in **three stages**:

- i. **19th century:** followers of a particular religion started thinking that they have common religious as well as political, social, and economic interests.
- ii. **Beginning of 20th century:** communalism made proper appearance. Community realized their interests are different from each other.
- iii. **Finally,** Communalism emerged in the form of mutually antagonistic interests giving birth to two nation theory and Pakistan

B. Chronological analysis

- i. The British started appeasement of Hindus as they thought Muslims were responsible for the 1857 revolt. Sir S.A. Khan promised loyalty to the British to prevent marginalisation of Muslims.
- ii. British left Hindus for sake of minorities which are always better partners for imperialists.
 1. British announced Bengal Partition in 1905 to divide Indians.
 2. In 1906, Muslim League was formed in Dhaka.
 3. In 1909, Statutory recognition that Muslims are separate community from Hindus.
 4. 1919's separate communal electorate was extended to other religious minorities.
 5. In 1915, Savarkar formed Hindu Mahasabha against Muslim League.
- iii. IN 1923, **Savarkar** gave theory of **Hindutva**.
- iv. **Mohammad Iqbal answered by giving concept of Muslim Ummah / Brotherhood.**
 1. He held that the Quran does not permit Muslims to live under man made laws.
 2. The Quran does not look at Muslims as a separate nationality. There is no concept of territorial nationalism, all Muslims are one community.
- v. 1925, Formation of RSS: Hegdewar & Golwalkar. It was against pan Islamism. RSS promoted 'militant form' of Hinduism to overcome Hindu sense of vulnerability.
- vi. 1932 – **Ramsay Macdonald award:** After separating different communities on ground of religion, British wanted to reduce Hindus to minority.
- vii. The British left Hindus for the sake of minorities which are always better partners for imperialists.
- viii. All these developments ultimately culminated into partition on ground of religion and the subcontinent suffered one of the worst forms of communal violence.


Role of religion in Post-independence politics

1. **Until the 1960s,** there was no major riot in the country but the bitterness of partition was continuing. Nehru could maintain harmony partly because the position of Congress remained un-challengeable and also because the government had put ban on communal organisations.
2. **From 1960s to 1980s**
 - A. The hegemony of Congress started breaking. Political competition started becoming challenging. Communal mobilisation started. During the lifetime of Nehru, communal riots took place in many towns – Jabalpur, Nagpur, Aligarh, Ahmedabad.
 - B. **Selig Harrison** has described the **1960s** as a '**dangerous decade**'. According to western scholars, the Indian experiment is over, India will not survive beyond the 60s. There were communal riots, Linguistic movements, opposition to Hindi as national language, and demand for linguistic states.
 - C. '**Nehruvian consensus**' started **breaking down**. Fortunately, India survived. During the 1970s and 80s, massive use of religion started. The breakdown of the congress system was the reason that congress had to use religion as an ideology or political method.
 - D. One of the worst examples of religion based violence was the 'uncivil war of Punjab'. It culminated into tragedy of operation 'blue star', assassination of Indira Gandhi and 1984 riots against Sikhs.

Since 1990's

- E. There was a phenomenal rise in communal politics in the 1990s.
- Congress losing its base among Dalits. Congress started double appeasement which made BJP insecure and they started Ram Mandir issues.
 - There has been a growth of mobilisation of people based on religious lines for example **BJP bringing the issue of Ram Mandir** to the fore.
- F. **Role of VP Singh govt.:** He was **unable to manage coalition**. He was also not able to manage **militancy in Punjab** and Kashmir and deteriorating **economic situation**.
- Hence, to consolidate his position, he used Mandal Card (another communal award to divide India). This made BJP more insecure. It was not left with any option other than RATHA YATRA - it culminated in the demolition of Babri Mosque.
 - Though, it is seen as an ideological agenda of BJP, yet the lack of political will on the part of Congress government led by Narasimha Rao at the centre have further questioned the Congress commitment to secularism
- G. Government played caste card by announcing implementation of **Mandal commission**. It means **division of Hindus on caste grounds**.

Views of Scholar's on role of religion in Indian politics

1. **Thomas Blom Hansen** has explained the phenomenon of communalization in his book "**The saffron wave**" denoting the rise of BJP from 2 seats in 1984 to the status of formation of government and first successful completion of coalition govt.
 
 - a. To Hansen's thesis, we can add that in the 2014 elections, BJP could get an absolute majority. Thus at least it has put a halt on coalition politics. According to **Suhas Palashikar**, there is a possibility of India moving towards the BJP system.
2. **Pratap Bhanu Mehta:**
 - a. The politics of Hindutva is not recent. Even Congress has followed the politics of Soft-Hindutva along with orthodox Muslims.
 - b. He gives the example of the decision of Rajiv Gandhi Government to allow the opening the gate of Ram Janma Bhoomi.
 - c. He also gives the example of Rajiv Gandhi Government nullifying the verdict of **Shah Bano judgement**, ignoring the voice of liberal Muslims to appease the orthodox sections.
 - d. Similarly, he cites the example of Indira Gandhi government using Sikh fundamentalists against Akali's and then Hindu fundamentalists against Sikhs.
3. **According to Neera Chandoke-**
 - a. Indian model of secularism, itself allowed space for legitimization of communalism. BJP has been successful in establishing Congress model as pseudo secular and its own communal model as genuinely secular.

Analysis of communal riots in India

There are 4 schools of thought which analyse the communal rights in India.

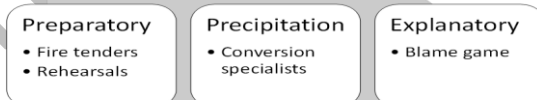
- **Essentialist**
 - According to this school, Hindus and Muslims are two antagonistic communities. Hence they are bound to fight against each other.
 - This view has been propounded by western scholars like **Louis Dumont**. Jinnah's two nation theory is also based on the above approach.
- **Instrumentalist**
 - **Bipin Chandra**. According to this school, communal violence whether pre-independence or post-independence is because of the elites. Elites prefer mobilisation on the lines of caste and

religion. According to this theory, politicians use communal politics but people are not communal. Hence after some time, normalcy comes back.

- **Institutionalist**
 - **Asghar Ali Engineer.** According to him, state policies promote communalism. State actions, public policy make one community insecure and nurtures the feeling that others are appeased and they are being discriminated against.
- **Social constructivists**
 - According to them, different communities continue to nurture some stereotypes against each other, they develop mental maps and live with that map. According to social constructivists, the lack of communication between the communities force them to live with such stereotypes. The trust deficit between the communities due to lack of communication is a major problem.

Contribution of **Paul Brass:**

- According to him, communal riots are not spontaneous events. There is a well-developed machinery in the country. They are not riots, but pogroms of targeted violence.
- They are executed in a very professional manner. The atmosphere is never free of communal violence. Political parties never allow the atmosphere to be free. Communalism has to remain in the air.
- He gives three stages in the evolution of communal violence. There is proper division of labour according to him.
 - **Preparatory stage:** There are proper rehearsals. In this stage, there is a role of fire tenders. Keeping communalism in air through speeches.
 - **Precipitation stage:** This is a stage when major violence erupts. Now comes the role of conversion specialists.
 - **Explanatory stage:** Now the blame game starts.
 - **According to him, everyone loves good riots in India.** All parties are benefitted. Voters of all parties get consolidated due to polarisation. The most dangerous time to be watched is near elections. This also shows that communal violence can be easily controlled. According to studies, the district administration has enough power to stop it within three hours.
 - **Prof. Dipankar Gupta** has mentioned the **concept of picnic riots**. Proper picnic takes place after riots, people get rewarded for work.



Whether the role of religion and caste is declining in Indian elections?

The Bharatiya Janata Party's (BJP's) overwhelming victory in 2014 sparked claims of a change in the Indian voter's mind-set. Many claimed that the 2014 results showed that voters were now driven by an agenda of broad based and inclusive development (Vikas), rather than caste and religion.

However, **a new study by Abhijeet Banerjee, Amory Gethin, and Thomas Piketty**, published by the Economic and Political Weekly, debunks these claims and shows how identity and religious-ethnic conflicts, rather than economic issues and social policy, determine India's electoral choices.

Comparing data from national and state elections between 1952 and 2014 with electoral surveys and social spending data, the authors classify the support base and vote bank for parties across the ideological spectrum.

Shreyas Sardesal in his article on "**The Religious Divide in Voting Preferences and Attitudes in the 2019 Election**" held that religious polarization was at the core of the 2019 Lok Sabha election verdict.

Relying heavily on the National Election Study (NES) data sets, it finds that the election result was in large measure an outcome of massive vote consolidation on religious lines, with the majority Hindu community preferring the Bharatiya Janata Party (BJP)-led National Democratic Alliance (NDA) in unprecedented proportion and the main religious minorities largely staying away from it, although there were some exceptions.

Concluding lines

- The above analysis shows that communalism and Casteism are examples of increasing Plebianization (mobocracy) of Indian democracy. They can be considered as Indian variants of Fascism. As political competition will become cut throat, we can expect greater violence.
- India is a diverse country. And different models can be applied to different parts of the country. In some parts, riots are the result of politicisation of the issues while in some other parts there exists 'historic enmity' in communities.

Party system

Party System

UPSC Syllabus - Party System: National and regional political parties, ideological and social bases of parties; patterns of coalition politics; Pressure groups, trends in electoral behaviour; changing socio-economic profile of Legislators.

Previous Year Questions

2021	“The Indian party system is shaped by a complex interaction of the country’s federal structure, electoral system and social cleavages”. Explain.
2020	To what extent has the Inadequate intra-party democracy affected the functioning of Indian democracy.
2019	The changing socio-economic profile of our legislators does not augur well for the health of Indian democracy. Comment
2018	Comment on: Political personalities are more significant than political parties in India.
2018	Explain the increasing role of regional political parties in the national political.
2017	India has moved from 'one-party dominant system' to 'one-party led coalition'. Discuss.
2016	Discuss the pattern of Political Parties from one dominant party system to coalition politics in national politics.
2015	“Identity politics has trumped development politics in India.” Comment.
2015	Account for the rise of regional political parties and assess their role in contemporary India.
2014	Comment on: Marginalization of the left ideology in India.

Political Parties

Political parties

A political party is a group of people who come together to contest elections and hold power in the government. Political parties perform the essential input function known as ‘interest aggregation’. They agree on some policies and programmes for the society with a view to promote the collective good.

Gilchrist defines a political party as “an organized group of citizens who profess or share the same political views and who by acting as a political unit, try to control the government”.

Another definition given by **Gettell** is: “a political party consists of a group of citizens, more or less organized, who act as a political unit and who, by the use of their voting power, aim to control the government and carry out their general policies”

Political parties have become the universal feature of politics around the world. The study of political parties has become an extremely specialized field in itself known as **stasiology**.

Stasiology - The term 'stasiology' can be defined as 'the study of political parties and the process by which a governing body remains static or self-perpetuating due to internal conflict'. The term

"stasiology," derived from the Greek "stasis," meaning faction, was suggested by **Maurice Duverger** in **Political Parties**. Before 1951, writings in this field had been confined largely to histories of parties, accounts of their electoral fortunes, and discussions of their programs and ideologies. The detailed analysis of the political parties started with the behavioralism with the writing of **Duverger** and the **Robert Michel's** in his book **Political Parties**.

Theories of political parties

1. Normative approach

- a) Normative approach is proposed by **Edmund Burke**. According to him, political parties are the set of people sharing common ideology, coming together for promotion of national interest.

2. Catch-all party

- a) **Otto Von Kerckheimer**
- b) In recent times, ideology has lost the relevance and we see the rise of '**catch all parties**'

3. Lenin's theory

- a) **Lenin** in his pamphlet **what is to be done?** has given the theory of communist party.
- b) Lenin believed that workers are not capable of developing the revolutionary consciousness on their own, hence communist party will act as 'vanguard' of revolution
- c) Communist party is a secret society as the aim of communist party is to overthrow the state. It is pyramidal in structure. It will be having its cells at the local levels. Top leadership will do what is determined by the base.
- d) He makes distinction between communist party and trade unions. Trade unions are the parts of bourgeoisie systems. Trade unions can get only some concession for workers, whereas communist party can bring workers to power.
- e) Communist party works on the principle of democratic centralism. People will communicate to the top leadership, what they want. Top leadership will convert people's demands into a workable program of action. Once decision is taken by the top leadership, it will be implemented at all the levels and hence it will be centralized.

4. Behavioural theories

a) **Robert Michel** in His Book: **POLITICAL PARTIES**.

- I. He has given the concept of '**iron law of oligarchy**.' He has analysed the internal functioning of socialist parties in Germany to examine the claim of Marxists that socialist parties operate on different principles. He came to the conclusion that there is no difference in the internal functioning. All powers are in the hands of top leadership. Hence he suggested that **oligarchy is the iron law**, power will always be in the hands of elites. Masses never shape decisions. Thus irrespective of the ideology, all parties operate in a similar fashion.

b) **Duverger**- Book: **THE POLITICAL PARTIES (1951)**.

- I. He has given **Duverger law**- This law tells the relationship between the electoral system and the party system
 1. If simple majoritarian electoral system, it will have two party system
 2. If proportional representation it will have multi-party system
- II. Structural analysis of political parties
 1. **On the basis of ideology**
 1. Mass parties: liberal and communist
 2. Cadre based party: rightist party

2. Internal structure

1. **Branch:** Some parties have branch
2. **Cells:** Feature of communist party
3. **Caucus:** small group of leaders. primarily associated with rightist party
4. **Militia:** fascist party of Mussolini

Importance of political parties

1. Political parties are the most **prominent drivers of the political discourse** in a multiparty democracy.
2. It is the parties, which provide political leadership, mobilize the electorate during the elections.
3. Perform crucial functions like **agenda-setting** and **political propagation** based on a wide range of issues.
4. Political parties perform various other roles. For example,
 - a) **Formation of government**
 - b) Formation of **opposition**
 - c) **Political education** and **political socialization** etc.
5. **According to Zoya Hassan** (Pragmatism), Political parties in India have played critical role in the success of India's democracy but at the same time Parties only have to be blamed for most of the problems of Indian democracy.

Scholar's view of Political parties

- On one hand there are scholars like **Laski** who believe that political parties are essential for democracy.
- On the other, there are leaders like **Gandhi, MN Roy and Jaiprakash Narayan** who believe in a party-less democracy.

Party system

Party system is not based on number of parties but it is based on number of parties having systemic relevance. For example, at the time of independence there were multiple parties but Indian party system was known as one party dominant system.

Unique features of political parties in India

According to **Zoya Hasan** political parties in India reflect many unusual features.

1. No concern for ideology – there is a growth of catch-all parties.
2. Rather than policy-oriented, parties are office-oriented
3. The disconnect between people and parties.
4. Connection between political parties and corporate groups including among the communist and socialist parties.
5. None of the parties have any grand design.



Views of Paul Brass

- Indian parties reflect paradoxical features. There is a blend of Western bureaucratic structure with indigenous political practices and institutions.
- Political parties lack intraparty democracy.



Views of Yogendra Yadav

1. Political parties in India are going through the process of **institutionalization as well as deinstitutionalization**.
2. On one hand, their reach is increasing but on the other hand, the depth and intensity of the voters have been declining.
3. The role of political parties has got reduced to the instrumental act of voting.
4. They have overlooked the broader agenda of a democratic nation and nation-building.

**Various stages of evolution of party system in India**

1. Stage 1. Up till 1967 - Congress system
2. Stage 2. From 1967 to 1977. Breakdown of Congress system.
3. Stage 3 1977 in 1979. Two-party system.
4. Stage 4 from 1979 to 1989. The emergence of a multi-party system.
5. Stage 5 1989 till 2014. Multi-party democracy system, age of coalition politics.
6. Stage 6 2014 onwards. BJP dominant party system.

Congress system

At the time of independence, India had multiple parties but the Indian party system as described by **Morris Jones** used to be known as a one-party dominant system.

Letter on Rajni Kothari has coined the term 'Congress system'. It shows the dominant status of Congress. no other party with the exception of Kerala and Kashmir could form the government even at the state level. Rajni Kothari calls Congress, a party of consensus and other parties as parties of pressure.

Why Congress was party of consensus?

Rajni Kothari calls Congress a Rainbow coalition. Congress itself was a Grand coalition. Congress programme could incorporate the interest of the different sections of the society. The status of opposition parties was like pressure groups. there located outside the margins of the party system.

Reasons for the Congress system.

- The hegemony of the Congress was because of its role in the Indian National Movement. Congress became a mass party under the leadership of Gandhiji. Congress maintained centrist agenda. Congress rejected communalism as well as communism.
- Nehru maintained a democratic intellectual climate within the party. Nehru promoted freedom of speech and expression within the party, the culture of toleration and accommodation. Nehru showed sensitivity towards minorities. Most importantly Nehru could convince the Indian masses that Congress is critical for the survival nation.

Breakdown of Congress system / changes in political process

Breakdown started in 1967 when Congress lost its majority in nine States. In 8 states for the first time the non-Congress government could come to power and in the 9th State Congress could form a government only in the coalition.

Why the decline of Congress system?**1. Internal factors**

1. De-institutionalization of democracy within the party
2. Concentration of power in the hands of a single leader
3. Lack of intraparty democracy.
4. Intra-party elections have not taken place since 1972.
5. Congress lost the touch with grassroots leaders. Newline Central leadership was dependent on loyalists. There is no scope for internal criticism and descent.

2. External factors.

1. **As suggested by Yogendra Yadav**, the decline of Congress is linked to the deepening of democracy.
 - a) 1st democratic upsurge has resulted in OBCs coming out of the party.
 - b) 2nd democratic upsurge resulted in the Dalits coming out of the party.
2. Other causes for the decline of the Congress system also includes Green Revolution and state reorganization. this has resulted in the strength of OBCs and the rise of the regional parties.

Additional note**3rd Democratic upsurge**

We are witnessing now the 3rd democratic upsurge. There is turnaround among Dalits, OBCs and Muslims indicative of new upsurge. These communities feel that the promised fruits of second upsurge were denied to them. **They got identity, not empowerment.**

So, they **feel attracted to parties that offer them political and economic empowerment.** The first sign of discontentment was discernible soon after Mayawati's successful social engineering in 2007. The Centre for the Study of Developing Societies (CSDS) data suggests Dalits, OBCs and Muslims started leaving parties they traditionally voted, moving to non-caste parties mainly BJP and Congress

3rd democratic upsurge is characterised by a steady rise in activism by the urban middle class, as demonstrated by the historic India Against Corruption Movement. It gave rise to the Aam Aadmi Party (AAP), arguably India's first major class-based urban political party.

It underlines three shifts in India's electoral market

1. From State to Market,
2. From Government to Governance,
3. From State as Controller to State as Facilitator,

Moreover, the Third Democratic Upsurge seeks to promote the participation of the youth who constitute a significant chunk of Indian society and have emerged as the real game changers in view of their increasing electoral preferences for both development and governance in India's contemporary democratic politics.

During the second democratic upsurge, the marginalised were moving towards caste parties in search of identity; **today, they are moving away from them for empowerment.**

Present status of congress

According to **Suhas Palashikar**, Congress is not in a state of decline, rather the 2014 election mark the death of Congress.

- The number of seats which congress got in the 2014 election is even less than the number of seats Congress could get after the emergency. Congress' social base, as well as territorial base, has shrunken.

Future prospectsViews of **Pratap Bhanu Mehta**

Congress should leave the majority and minority complex. Congress should know how to make strategic alliances. Instead of the party of defence, Congress should emerge as a party of transformation. The party should go back to the role of organising social movements and should not restrict itself to electoral calculus.

**Nature of party system in India since 1989**

Politics does not operate in a vacuum, similarly, parties also do not operate in a vacuum. The party system gets influenced by all factors internal and external. The Indian party system is also changing in the context of the changing external and internal development. India, which is known as one-party dominance system, got transformed into a multi-party system. From 1989, the era of coalition politics started. From 1977 itself we see the process of fragmentation and regionalization.

Causes for the rise of regional parties.

According to **Milan Vaishnav**, rise of regional political parties is an eternal theme of Indian politics. Regional parties operate within limited geographic area and bank on language, minority, religion etc. Number of regional parties in India is much larger due to Diversity.

• **Institutional factors**

1. **Delinking of parliamentary and state legislative elections.** It has given opportunities for Regional parties for mobilization of people on local issues.
2. **India's Federal System**-State governments deal with those issues which are of day to day relevance. This also gives an advantage to the regional parties. The leaders associated with regional parties are in Greater contact with the people at the Grass root level.
3. **Linguistic reorganisation of states** has given rise to the dominant caste forming their own regional parties.

• **Social and economic factors**

1. The Green Revolution gave rise to the intermediate caste asserting their power even in the political sphere.
2. The deepening of social cleavages as a result of the continuous mobilization of people on ethnic grounds.
3. The growing politicization of religion
4. The growing consciousness about rights and democracy
5. The suspension of democracy and the introduction of emergencies also led to the fragmentation of Congress and the strengthening of regional parties.

According to **Sudha Pai**, regional parties are rooted in regional ground. They should not be seen as a by-product of regionalism, rather phenomenon in its own right. It is a result of linguistic reorganization, decline in congress system, uneven development etc.



Consequences of growth of regional politics

Regionalization of Indian political party system has resulted into both negative as well as positive consequences.

1. Positive consequences

- a. Democracy becoming more representative.
- b. Regionalization has strengthened the federal axis of Indian political system. It has strengthened the bargaining power of state governments
- c. Greater role for state even in foreign policy.

2. Negative Consequences

- a. Rise of regional parties led to the **coalition politics**, Coalition politics in the absence of healthy coalition culture has given rise to
 - i. Party paralysis
 - ii. Increased role of money and muscle power.
- b. Politicization of the post of speaker.
- c. Decline of parliament.
- d. Regional issues dominate over national concerns.

3rd Front

1. 3rd front is Primarily **an alliance of regional parties with no ideological coherence**. They do have significance at the state level and decent vote share at national level.
2. 3rd front in India is **a fluid category**. Its combination keeps on changing. It is primarily the collection of regional parties
3. 3rd front is **not insignificant**, it continues to have significant share of votes and has dominant presence at state level. Since 3rd front represents OBCs as well as other sections like Muslims, Dalits, 3rd front is always an important force.
4. 3rd front has **also formed government** at the union level 2 times.
 - I. In 1989, National Front Govt. was formed with the support of BJP.
 - II. United Front Govt. in 1996, with the support of Congress and CPI(M).

However, 3rd front could never provide stable government. It has never been stable internally. It emerges before elections and dissolves after elections.

1. In 2008, 3rd front formed United National Progressive Alliance.
2. In 2014, 14 parties formed 3rd front as an alternative to corrupt Congress and communal BJP. However, it was dissolved within 24 hours.
3. In 2019 elections, **3rd front was formed under the banner of Mahagatabandhan**. And even Congress was part of it. It was, however, ineffective to influence election outcome.

Problems with 3rd front.

1. **Every group has their own leader** Too many leaders create the chaos and results into the leadership crisis every group has their own leader which cannot provide a united stand.

2. **Catch all parties** – The sole purpose of the parties coming together is to come in power rather than ideological matching which results into opportunism.
3. **Too parochial in their approach**- They have objective only to oust the sitting government.
4. **Lack nationalist agenda**- They are guided by their regional agenda rather than any nationalist agenda.

AAP Phenomenon.

AAP (Aam Adami Party) is a by-product of globalization. AAP phenomenon is not unique to India. The other parallel examples are Tehreek-i-insaf in Pakistan, Syriza Party in Greece, Workers Party in Brazil, People's movement in Hong Kong.

AAP is also considered as **urban phenomenon**. Globalization has resulted into the increase of **inequalities**. Globalization has increased democratic consciousness awareness about good governance.

AAP was **formed in 2012**. It emerged **out of anti-corruption movement**. AAP describes itself as anti-politics and anti-ideology. AAP is against power politics.

Ideology

1. **Anti-politics:** Entering into politics not for power but to change the system from outside. They need power to change the system from within because the pressure from outside has not worked.
2. **Beyond identity politics** They want to take Indian politics away from caste/religion/regionalism.
3. **Bottom up approach**- They want to strengthen Grassroot democracy(swaraj)
4. **Intra party democracy** Members have right to recall the members of executive body. No two members of the same family will be in the executive body or will contest election thus checking the nepotism.
5. **AAP rejects high command culture.**

Ideology and Political parties in India

Parties based on ideological orientation

The word "left and right were initially used in the French revolution at that time, France had monarchy (one king rule the nation) some people were in support of monarch and some were against it and want democracy in their nation. At that time. The sitting arrangement of France parliament was in such that

- **People sitting right side** were those who were loyal to their monarch, mainly the wealthy class
- **People sitting left side** were those who were poor and were not loyal to their monarch and want democracy in their nation these people were not happy from monarchy and want a revolutionary change in the existing system

Therefore, the definition of left and right came from these historical facts. And, people use different words or tag for left-wing and right-wing, which are the following

- **Left-wing: reformist, revolution**
 - The parties who want a change in the existing system. Generally, they are Liberals, Socialists, Democrats and Communist. Left wants pro-change and they are liberal.
- **Right wing conservative, establishment**

- The parties who believe in the existing system. The basic thoughts of the right-wing are social conservatism and economic liberalism and they are Conservatives, Nationalists and Republicans

Ideological orientation of parties in Indian context

1. **Socially right-wing:** There are three socially right-wing parties in India on the aspects of religion. These are: - the Bharatiya Janta Party (BJP), Shiv Sena, All India Majlis-e-Ittehadul Muslimeen (AIMIM);
2. **Socially left-wing:** Remaining parties are socially left-wing because they are secular parties. These are: - the Indian National Congress (INC), Aam Aadmi Party (AAP), Janta Dal-United (JDU), All India Trinamool Congress (TMC), Communist Party of India- Marxist (CPI-M);
3. **Economically left-wing:** – Almost every party in India is economically left-wing because they support subsidies and want to increase taxes.

Right wing Parties in India

Milan Vaishnav held that there is a big change in the electoral behaviour of people in India. For long, Indian politics was based on the agenda of secularism and minorities. The present Indian politics is a rejection of both minorities and Congress version of secularism and the assertion of majoritarianism in combination with the concern for good governance and development.



Thomas Blom Hanson in his book “The saffron wave” has explained the phenomenal rise of BJP and the forces of Hindutva.

According to Hanson, rise of BJP is not a religious phenomenon, nor is it a strictly political phenomenon. It is happening in the backdrop of the democratic transformation taking place in the country. As lower castes and OBCs are mobilizing themselves, the amorphous Indian middle class becomes anxious. Even lower class Hindus got attracted towards BJP’s majoritarianism rhetoric, constructed in the name of nationalism, cultural pride, order, development and leadership.



Statistics

1. In 1984, BJP got 2 seats and 7.4% of total votes.
2. In 1999, BJP got 183 seats and vote share of 23%
3. In 2014, BJP got 282 seats and vote share of 31.5%.
4. In 2019, BJP got 303 seats and vote share of 37.36%

From 2 seats in 1984 to 303 seats in 2019, there is no question on the rise of right in Indian politics.

History of BJP.

1. BJP is a successor to Jana Sangha formed in 1951 by Shyama Prasad Mukherjee. The other prominent leader was Pt. Deendayal Upadhyaya.
2. Party believed that strong opposition was necessary for democracy. So they wanted to give strong challenge to Nehruvian consensus.
3. Jan Sangha was part of Janata Party govt. In 1980, over the disputes of association with RSS and policy of secularism, Jana Sangha members came out of Janata Party and formed BJP on 6 April 1980.

4. BJP is influenced by cultural nationalism, Gandhian socialism, positive secularism.

Causes of the rise of right

1. Decline in Congress.
2. Demise of the left.
3. Organizational strength till grassroots level.
4. Nationalistic rhetoric.
5. Globalization.
6. NRIs provide huge support to BJP's policies
7. Globalization has given rise to ethnic politics worldwide, leading to strengthening of religious identity.
8. The rising fear of Islamic fundamentalism.
9. Economic policy which matches with globalization.
10. The growth of middle class in India.
11. Strong leadership.

Views of Scholars

- **James Manor.**

- With the decline of Congress, people were left with two options: Left or BJP. Left ideology lacked imagination. Left also lacked leadership. Right appeared to be a better option from all perspectives.



- **Christophe Jaffrelot.**

- The sense of insecurity among the Hindus as Congress policies were seen as minority appeasement. Congress, which was once an umbrella party, has been reduced to the status of party of minority.



Left Parties in India

Praful Bidwai, in his book "**phoenix movement: challenges confronting Indian left**". Suggests that the decline of left is an old story. It is surprising that left in India could never take root despite the prevalence of mass poverty. It is also surprising that youth in India is attracted towards right rather than toward left.



Initially left was the major opposition to the Congress. It's vote share was double the vote share of Jan Sangha (rightist party). Today rightists are in position to form government on its own. BJP has given a halt to coalition politics. But unfortunately today, the left has got completely marginalized.

Problems with the left parties in India

- Because of their shifting stand during Indian freedom struggle, left could never gain the trust of Indian masses.
- Neither then, nor now left has presented any serious understanding of the peculiar circumstances of Indian Politics. They are still dependent on imported doctrines. The principle of democratic centralism, which does not allow dissent and internal debate has been the factor for weakening of left. Left in India also has high command culture.
- Left leaders do not have grassroots base. Most of them have been picked up from universities.
- Left agenda was initially hijacked by INC and now by AAP. Congress was a better version of Indian form of socialism and AAP is a better version of new left.

- There is a lack of internal solidarity among the left parties.
- The main feature of the left politics is politics of social movements as radical democracy. But left has confined itself to the electoral politics.
- Left in India has not done the politics of class or development. It has also done the politics of religion and caste.
- Globalization has made left ideology redundant. Left ideology does not meet the ambitions of youth in India.
- Left foreign policy is completely redundant. Left has taken up the foreign policy left by Congress. Today the strongest advocate of non-alignment is not Congress, rather Indian left.
- Left foreign policy is based on anti-globalization, anti-Americanism and pro-Chinese stand.
- Left also lacks leadership. For 2014 elections, none of the left leaders was among the top preference for Prime Ministerial post.
- Globalization has created foot loose workforce. Hence it is difficult to build and organize trade unions.

Concluding line

Indian left needs introspection. It is much better if they go back to the original idea of left politics i.e. politics of social movement, radical democracy, organizing the exploited sections of society and working for their rights.

Coalition Politics in India

William Riker - Coalition government is the feature of parliamentary form of government. It emerges in the situation of hung assembly or parliament. He has explained the coalition as 'power sharing arrangement'.

Prof. Ogg defines coalition as "**cooperative arrangements** under which distinct political parties unite to form a Government or Ministry". Thus, it can be said that **result of the exigencies of competitive multi-party system in a parliamentary democracy** is coalition. It is a phenomenon where more than two political parties come together to form a government, **sinking their basic ideological differences** in the event of the inability of any single party to command a workable majority in the lower House of the legislature.

Is coalition government unique to India?

It is not unique to India. It is a regular feature of countries in continental Europe. In Europe, Italy's coalition culture come near to India's coalition culture.

History of coalition in India.

Bidyut Chakravarty in his book "**Coalition Politics in India**" has analysed the evolution of coalition system in India he held that Coalition is not new to India.

1. **The first real coalition** at the level of the Union government was formed in 1977, three decades after independence, when the Janata Party came to power. In view of intra-party rivalry, the Janata government collapsed within two and a half years of its inception and Congress swept back to power in the 1980 national poll.

2. **The next coalition government** at the Union level was formed in 1989 by the Janata Dal, led by V. P. Singh, a former Congressman who defected from the party because of his disagreement with its leader, Rajiv Gandhi.
3. **The thirteenth general election**, held in 1999, was a watershed in India's recent political history for the reason that for the first time, a pre-electoral alliance – the National Democratic Alliance – was able to win a majority in the Lok Sabha.
4. **Emergence of multi-party coalition post 2004** – There has been a fundamental change in the role of parliament since the emergence of multi-party coalitions as 'a regular form of government' in India
 - a. The smaller parties became an integral part of governance in view of the changing complexion of the parliament, which is no longer dominated by a single party.
 - b. The survival of the government depends on the support of one or more parties which have different ideologies and different support bases.
 - c. One of the factors that contributed to the rise of these smaller parties is certainly the breakdown of Congress and also its failure to represent the myriad social and economic interests at the grassroots.
5. **Emergence of One party led coalition after NDA government** - The **NDA** is perhaps the most **successful experiment in India's recent political history** of a coalition of apparently ideologically incompatible but politically congruent partners due largely to acceptable common minimum programmes. The success of the BJP-led NDA Glued by the common minimum programme avoiding contentious issues, the NDA survived drawing on a clear understanding between the numerically strong BJP and other smaller regional parties.

Unique features of India's coalition culture.

Bidyut Chakravarty – According to him there are following difference between the Coalition in western countries and India.

Western	Indian
Coalition in western countries are 'coalition by design'.	Coalition by Political Calculations still searching for design.
Coalitions are power sharing arrangements and hence in western countries, we see Minimum winning coalition.	Over-sized coalition
In western countries, ideological convergence is taken into account	But in India Rainbow coalition have been formed. (Different ideology).
Positive coalition to run the government	In case of India, negative coalitions have been the regular feature. Coalitions have been formed not to run the government but to stop someone else from coming to power

Consequences of Coalition Politics in India.

Unfortunately, there have been more negative consequences of coalition politics. The problem does not lie in the coalition but problem lie in India's coalition culture. Some of the negative consequences are:

1. Policy paralysis.
2. Decline of parliament.
3. Decline in post of speaker.
4. Decline in dignity of speaker
5. Judicial activism.
6. Presidential activism.
7. Frequent elections.
8. Horse trading.
9. Defection.
10. Increasing role of money and muscle power.
11. Increasing use of ethnic mobilization.
12. Weakening of institution of PM. (In a coalition, there are more than one PMs. For a particular faction, their own leader is PM).
13. Increase in corruption.

There are some good consequences also

1. Makes democracy more representative
2. Protects democracy in turning into the tyranny of majority
3. Regional aspiration can be articulated
4. Regional neglect can be taken care of.

Is coalition desirable in India?

The question is not if it is bad or good but the question should be if it is inevitable or not.

Coalition is unavoidable in a country like India. Since coalition is not avoidable in a country like India with huge diversity, it is more important to think about how to make coalition work rather than thinking over its desirability.

Coalition itself is not bad. Coalition make democracy more representative, consociational. However, coalition may impact national interest of country if it does not have healthy coalition culture. Hence we have to think how to bring healthy coalition culture.

Thus it can be said that coalition government is desirable in India it has also been supported by Various scholars like:

Shruti Rajagopalan- Coalition governments may prevent good reform, but, by the same principle, also prevent badly crafted ideas rammed down by a strong executive. Thus she held that India needs coalition governments to check executive overreach.

Prof Torben Iversen in his article Titled "**Electoral Institutions and the Politics of Coalitions**": **Why Some Democracies Redistribute More Than Others**', shows that rise in inequality is slower in countries that have coalition governments because Coalition governments redistribute resources

proportionately. On the other hand, countries with a majority government have witnessed rapid rise in inequality.

Sanjoy Hazarika-If politics is the art of compromise, then coalition politics is the chemistry of functional autonomy. Coalition in India may be the most representative and peaceful way of running a nation of such vast diversity, social and economic inequities.

What we can learn from the coalition culture of other countries

1. **We can learn from countries like Germany** which shows **sound coalition culture**.
 - a. We can incorporate some of the features found in Germany, rather than basing India's parliamentary system entirely on West ministerial model.
 - b. In Germany, Chancellor enjoys a stronger status in comparison to the PM of British model.
2. We can also think of **Japanese model where PM is elected by members of the lower house**.
3. Since the major problem of coalition politics is political instability. Hence we can constitute the system of 'constructive vote of no-confidence'.
4. We should rather shift to Chancellors model because in coalition politics, the position of PM becomes weak. Coalition partners get huge bargaining power
 - a. Role of PM gets reduced to manager of coalition rather than leader. This is avoided in Chancellor system. The Chancellor determines the policies of different department. Ministries have to work as per the policy directed. Cabinet system comes into practice only when there is a conflict between two ministries.

Solutions for healthy coalition culture

1. India should institutionalize the practice of Steering Committees on the regular consultative mechanism with all the members of the coalition.
2. If core party goes for greater transparency, there will be less scope for bargaining by smaller parties. There is a need for reforming anti-defection laws.
3. There is a need to strengthen such mechanisms which can check the corruption among the members of the parliament.
4. There is a need to bring electoral reform which can reduce the influence of money and muscle power, the influence of caste and religion in Indian politics.
5. There is a need to introduce ethics in politics.

Intra Party Democracy

Indian democracy has acquired a venerable place among the comity of thriving and robust democracies in the world due to its unflinching resilience and almost unhindered continuity. The case of Indian democracy receives accolades and appreciation due to its survival and durability in unimaginably challenging circumstances through history. But it is contradictory that the chief component of parliamentary democracy –The political parties itself follows no intra-party democracy.

India has no legal provision to enforce Intra Party democracy. EC regulates party through **sec 29A of RPA** but its toothless for Intra party democracy enforcement.

Inner-party democracy is critical for the survival and consolidation of democracy in India. Law commission in its 170th report point towards the lack of the intra party democracy within the country as a paradoxical feature of democracy in India.

How the lack Intra party democracy is reflected in political parties in India

1. **There is not gender parity in the parties. –**
 - Although the participation of the women in Voting has been recorded to be at par with the men but their representation in the parties as well candidature is not reflected in proportion to the population or the participation in Voting.
2. **Many party are based on dynasty politics**
 - The glaring dominance of dynasticism in most of the political parties in India strikes at the very foundation of political democracy, whose fundamental principle is equal opportunity in political participation.
3. **Political Defection and Horse Trading**
 - It facilitates entry of leaders from one party to another which distorts the cycle of internal political mobility within the political parties, which is detrimental to the growth of inner party democracy as well as democratic stability
4. **Criminalisation of Politics**
 - The tremendous increase in criminalization of Indian politics is one of the major threats to the health of Indian democracy. Increasing criminalization in politics, to a large extent, stems from the lack of democratic functioning within the parties with the inability to restrain political carders leading to illegal and incriminating consequences
 - i. Statistics show that the percentage of candidates contesting elections with criminal cases in the 2009 election was 15%, which increased to 17% in 2014, but it exacerbated to 19% in the 2019 Loksabha elections in India, as reported by **Association for Democratic Reforms (ADR)**.
5. **Wealthy Backgrounds of Political Leaders and Bribing**
 - Another prominent manifestation of the lack of inner-party democracy in India is reflected in the extremely wealthy background of majority of the political leaders and intra-party financial hierarchies across most political parties.

Factors hindering Intra-party democracy

1. **Institutional Weakness-**
 - a. It is the institutional weakness of the political parties that make their organizational structure extremely centralized. This is largely because political parties in India are mostly patronage-based parties, rather than power-dispersed parties
2. **Absence of a Credible Regulatory Framework**
 - a. constitutional and legal regulations to monitor Inner Party Democracy of parties is conspicuously limited and in some instances, non-existent.
 - b. The Section 29 A of the Representation of the People Act 1951 merely mandates the registration of political parties. Hence, the Election Commission of India (ECI) is rendered powerless in ensuring that the political parties conduct fair and regular internal elections for choosing its office bearers

Way forward

1. **2nd ARC Report:** The Administrative Reforms Commission's (ARC) 2008 Ethics and Governance Report pointed out that corruption is caused by over-centralisation since the more remotely power is exercised from the people, the greater is the distance between authority and accountability.

2. **By Law Commission:** The 170th report of the Law Commission of India on reform of electoral laws, dedicated an entire chapter on the necessity of providing laws relating to internal democracy within parties.
 - a. It observed that a political party which does not respect democratic principles in its internal working cannot be expected to respect those principles in the governance of the country.
3. **NCRWC Report:** The National Commission for Review of Working of Constitution states that there should be a comprehensive legislation regulating the registration and functioning of political parties or alliances of parties in India.

Concluding lines

- There is a need of an effective legal regime to guarantee genuine adherence to the principle of inner party democracy in India at the same time there is a need to mitigate the role of money and muscle power as well as rampant defections and crossovers to achieve it any momentous landmark legislation in advancing the goal of equal opportunity for political participation in India is not only desirable but necessity.

Pressure Groups

What are pressure groups

- Pressure groups are associations of people formed to articulate their interest
- Pressure groups are described by **Finer** as 'invisible empires'. Pressure groups are considered as integral component of pluralist democracies. Every democracy recognizes freedom to form association.
- According to **Alan R. Ball** -Pressure groups are firmly part of the political process and that they attempt to reinforce or change the direction of government policy, but do not wish, as pressure groups, to become the government."

What's the difference between Pressure groups and political parties?

- Political parties have a role of interest aggregation whereas pressure groups have a role of interest articulation (their own interest). Pressure groups remain outside from the govt. offices and pressurise from outside whereas political parties join political institutions/govt. institutions.

Difference between pressure group and interest group

1. There is no fundamental difference in pressure groups and interest groups. **Only terminological difference.**
 - a. In traditional approach the term pressure group was preferred
 - b. In behavioural approach the term interest group is preferred.
 - i. Behavioural political scholars wanted to develop standard terminology in political science like it exists in natural sciences.
 - c. **Technique and purpose** –
 - i. When we use the term pressure groups, we are focusing on the technique employed by these groups i.e. lobbying for promotion of their interests.
 - ii. Whereas when we use the term interest group, we are emphasizing on the purpose i.e. interest articulation.
 - d. Interest group term is more appropriate because pressure as a technique can be employed by opposition, social movements etc. hence this term may create ambiguity.

Pressure group politics is most influential in USA. Pressure groups are not very powerful in countries where political parties represent specific ideology e.g. Britain, where Labour party is assumed to work in interest of working class.

Pressure groups in India Pressure groups in India have also not played an effective role. However, since 1990s, there is a growth of pressure group politics in India.

One of the earliest studies on pressure group politics in India has been done by **Rajni Kothari**.

1. According to Rajni Kothari, pressure groups have been, agents of modernization, reservoirs of leadership.
2. In India, communal pressure groups have been more dominant.
3. However, pressure groups did not enjoy much legitimacy in the eyes of the people.
4. The predominant status of Congress party did not allow pressure groups to gain primacy. In fact, the status of **other political parties** was like pressure group. Hence **Rajni Kothari calls them, 'Parties of Pressure'**.



Scholar's view on Pressure groups in India

1. **Rudolph & Rudolph** have also analysed the role of caste association.
2. **Myron Weiner**, in his book **"politics and scarcity"** has highlighted the role of communal pressure groups.
3. **Christophe Jaffrelot** has studied the **role of RSS in Indian politics**.

According to **Prof. Anand Chakravarty**

- GOI should have shown greater accommodation towards pressure groups as many pressure groups were banned under regulations. If govt. had accommodated them, it would have been easier to address the alienation and secessionist trends.



Changing Nature of Pressure Groups in India

Robert Hardgrave and **Stanley Kochanek** has highlighted the changing nature of pressure groups in India.

- **Since 1990s, pressure group politics is shifting from state dominated pluralism to more powerful pressure group politics.** Pressure groups started gaining legitimacy as a result of liberalization and globalization.
 - Govt. of India has incorporated different interest groups in policy making institution. Like NAC, NSAB and now NITI Aayog.
- **There is a substantial increase in the power of business groups.** Business groups are also part of the delegation of foreign countries. The tradition of organizing parallel business summit along with political summit have become the regular feature. There is a greater pressure and influence of foreign lobbies and advocacy groups.

Status of different pressure groups in India

1. **Communal pressure groups, pressure groups of corporate sector, pressure group of rich farmers, all continue to play dominant role.**
2. **India still does not have dominant women organization.** Environmental lobbies, student unions, trade unions continue to be junior partners of political parties and many pressure groups primarily of left wing have been banned under ULPA.

3. **State continues to be dominant actor in India.** At times state has been not tolerant towards certain pressure groups. Recently there was a highly disputed report of IB which has pointed out that many NGOs are having anti-national propaganda and their activities have been detrimental to India's growth. Which has given state more power to constrain the role of pressure groups in India.
4. **Recent successful movement by the farmers against the farm acts which led to the withdrawal of the acts by the government** have established the strong role of farmer's pressure groups.

Some pressure groups in India and their successes

1. **India against corruption** an anti-corruption movement was one such example where the pressure groups made the government aware of rising sentiment in general public against corruption in public life.
2. Women's organizations such as SEWA, NCW have campaigned for women-friendly laws such as the Protection of Women from Domestic Violence Act, 2005.
3. In the North-Eastern State of Manipur, many groups including 'Just Peace', Apunba Lup (students' organization) and Meira Paibis (women's groups) are trying to influence the government to listen to people's genuine grievances. Together, these groups are associated with Irom Sharmila, a civil rights activist known as 'the Iron Lady of Manipur' who has been on a hunger strike since November 2000.
4. The Business group is one of the most important, influential and organised pressure groups in India. Examples of business groups- **Confederation of Indian Industry (CII)**, Federation of Indian Chambers of Commerce and industry (**FICCI**), Associated Chamber of Commerce (**ASSOCHAM**) – major constituents are the **Bengal Chamber of Commerce** Calcutta and Central commercial organisation of Delhi.
5. **The organisations based on religion** have come to play an important role in Indian Politics. They represent the narrow perspective and are often termed as anti-secular. Examples of these organisations are **Rashtriya Swyam Sevak Sangh, Vishwa Hindu Parishad, Brahma Samaj.**

Conclusion

Democratic politics has to be politics through **consultation, negotiation, and some amount of bargaining**. Pressure groups are now considered as a helpful and indispensable element of the democratic process. Because of the complexities of modern government, and the pluralistic nature of Indian society, pressure groups provide a means by which ordinary citizens can participate in the decision making process, as well as maintaining a check on government activity. Similarly, governments can be better informed of the electorate's sensitivities to policies, because of the pressures articulated by these groups.

Electoral Behaviour

The study of electoral behaviour is a result of the growth of behavioural movement in political science. Election studies help us in knowing the nature of democracy and strategizing party programmes.

According to Milan Vaishnav, the study of electoral behaviour in India is a challenging task because of size and diversity. But he has analysed some trends in electoral behaviour

1. When voters cast their vote, they **do not necessarily vote their caste**. Social biases remain entrenched in India, but the transmission of those biases into the political domain is imperfect and may be weakening."
 - a. While voters may harbour deep-seated social biases, **identity-based concerns and economic evaluations are both in play**. The most successful politicians have mastered the art of skilfully combining both types of appeals.
2. He believes that **economics is also important in Indian electoral behaviour** - Good economics can make for good politics in India. **Macroeconomic realities** are increasingly relevant
3. Indian voters have a long history of electing politicians who are the subject of ongoing criminal cases
4. **Dynastic politics** may not be popular, but dynastic politicians are. At least one in five members of parliament elected in 2014 came from a political family.

We can also put forward the **argument of Kenneth Arrow** who has given 'impossibility theorem'. In case of elections, it is difficult to determine the preference, when voters have more than 3 choices.

Still India is an interesting case study of the electoral behaviour.

It is a big puzzle, why do Indians vote. And vote in such a huge number. And when despite voting, nothing gets translated into any concrete achievement as far as governance and development is concerned.

Mukulika Banerjee and her team has conducted ethnographic survey of Indian voters. Survey gives many interesting findings.

1. Many voters consider that act of voting is an assertion of their citizenship right and duties.
2. Elections are the time when power inversion takes place.
3. People think that it is better to choose and reject who govern them.
4. Some vote out of feeling of revenge.
5. Some vote because members of their caste or community is contesting.
6. Some vote because they think that election commission is doing great job.
7. Some feel the edifice of democracy in India will collapse otherwise.
8. Some even consider voting as their sacred duty.

Trends in electoral behaviour

According to LOKNITI (CSDS- Centre for the Study of Developing Societies), we can see **following trends in India's electoral behaviour**.

- Caste and religion remain the major long term determinant.
- Corruption and anti-incumbency does not matter.
- No difference in the preferences of men & women, rural & urban.

According to study, poor are more sophisticated and strategic voters than the rich. Poor people have higher dependency on government welfare provisions. They have been found to be more aware and understand the value of their vote than the educated middle classes, who vote for not anything in return but as a duty towards nation.

According to **Yogendra Yadav**, people in India are moving from identity politics to identity plus politics. It includes concern for identity as well as development.

Assessment of Indian voters.

Prannoy Roy, Ashok Lahiri, David Butler in their book titled “a compendium of Indian elections” show that the voting behaviour of Indians is many times more mature than the voting behaviour of voters in western countries.

According to **M P Singh**, the credit for success for India’s democracy go to the great common sense shown by ordinary voters in India. He suggests that we cannot say that verdict of any election was ever wrong. People always voter for the best possible option.

Socio-Economic Profile of Legislature.

Legislature is the mirror of the society. If we want to understand the direction of social change, nature of democracy then we've to look at the social profile of the legislatures.

Changing profile helps us in **understanding the continuity and change in the political system of the country as well as in society.**

Changing Profile

Shankar and Rodriguez have studied the changing profile of parliamentarians in 3 broad phase:

Until the 1960s:

1. Domination of Brahmins and other upper castes.
2. Representation of SC & ST was because of reservations and those elected were form privileged background.
3. No match b/w population and representation of OBCs, women and minorities.
4. Parliament was dominated by Urban elites educated in foreign universities.
5. Basis of the authority of parliamentarians was their participation in the national movement.

From the 1970s to 1990s:

- Known as “Twilight” Zone or **Transition zone**”. It has been described by the **Yogendra Yadav** as **1st democratic upsurge** which has resulted in OBCs coming out of the party.
- Because of certain developments,
 - I. **Green revolution** which strengthened the position of OBCs the landowning class.
 - II. **Breakdown of Congress system**-rise of regional parties.
 - III. **Presence of indigenously educated parliamentarians** increased
 - IV. Agriculturist and rural elites gained dominant position.
 - V. Rise of full-time politicians -Students joining politics.

From the 1990s until now:

1. Plebianization of Indian democracy came to be established.
2. Role of caste, religion and other ethnic factors increased. Which has been described By **Yogendra Yadav** as **2nd democratic Upsurge** which resulted into Dalits creating their own party and contesting elections based on Dalit identity.
3. Representation of OBCs gone up.

4. No. of educated parliamentarians also increased. -members from diverse backgrounds join parliament
5. The rural-urban divide wasn't prominent
6. In terms of gender, we see stagnation-Until 15th LS representation of women could not go beyond 8-10%
7. Increased criminalisation of politics - Statistics show that the percentage of candidates with criminal cases in the 2009 election was 15%, which increased to 17% in 2014, but it exacerbated to 19% in the 2019 Lok Sabha elections in India, as reported by **Association for Democratic Reforms (ADR)**

Profile of parliamentarians of recent 17th Lok Sabha

1. Women representation

- **78 women** has been elected to the 17th Lok Sabha which represent 14% of the total strength of LS--largest no. of women .5% in the 1st Lok Sabha to 14 % in the 17th Lok Sabha.

2. Age and term

- The average age of an MP is 54 years.
- **267 first-term MPs in the 17th Lok Sabha**

3. Economic and profession profile

- 39% of MPs have listed their occupation as political and social work.
- 38% are engaged in agricultural activities. 23% MPs are businessmen.

4. Education

- more than 77% are graduates.
- 27% of MPs have studied till 12th class.
- 41-62% are post-graduates

5. Status of criminalisation of politics

- The 17th Lok Sabha will see the highest number of members of parliament facing serious criminal charges
- According to ADR report, 43% of the newly elected MPs are charged with criminal offenses, while 29% of them are facing serious criminal charges such as murder, rape and kidnapping.

Profiling the 17th Lok Sabha **Christophe Jaffrelot & Gilles Vernier**

1. Skewed representation of women

- a. With 78 women elected out of 542 seats (14.6%), India stands at the unenviable global rank of 141st with regard to women's representation in national parliaments. This is still the highest number achieved by women candidates in India.

2. Resurgence of upper-caste representation

- a. The data collected for the last three General Elections reveal that representational trends among major caste groups have been stable.
- b. The upper caste accounts for 28-29% of all MPs, against 23% of OBC MPS and 14% of intermediate-caste MPs.
- c. SC and ST representation is stable by virtue of being mandated by quotas.5 Muslims' representation remains low, slightly above 4% of all MPs.

3. More candidates with strong economic background

- a. The data is largely self-declared and prone to error and manipulations, but provides nonetheless valuable material, which has been used to assess linkages between crime, wealth and performance in Indian elections.

4. Occupation

- a. Establishing the occupational profile of candidates and MPs is an arduous task. First, this is self-declared data and therefore scarcely reliable. The categories used (farmer, business...) are broad and vague. They obscure their actual occupation behind meaningless categories such as social or political worker.
- b. Data extracted from the Association for Democratic Reforms (ADR), is also difficult, since many candidates declare more than one profession, or no profession at all.

5. Implications and explanation

- a. The portrait that we can draw so far of the Lok Sabha is that of an assembly dominated by men, mostly Hindu, disproportionately upper-caste, a significant number of whom belong to political families. These four markers of elitism are further compounded by a selection of candidates through wealth and the occupational profile of MPs, increasingly grounded in business activities.

Conclusion

The study by **Arvind Panagariya** also shows that things are changing and now the economy also matters. In recent elections, BJP has created a new category. The category of economically weaker sections.

- It has certainly diluted the role of caste and allowed the emergence of class identity. Besides caste, the region, religion, dynasties have also shaped voting behaviour.
- Recent election shows the rejection of dynastic politics. However, it is just an impression. The most unfortunate aspect of voting behaviour is the non-rejection of persons with background

According to **Yogendra Yadav** Political representation faces a paradox in contemporary India. On the one hand, the practice of representative democracy for over half a century has led to a widening of the pool from which political representatives are recruited, accompanied by a reduction in the mismatch between the social profile of the representatives and those who are represented. This deepening of representative democracy coexists, on the other hand, with a thinning of the very idea of representation.

Social Movements

Social Movements

Syllabus - Social Movements: Civil liberties and human rights movements; women's movements; environmentalist movements

PYQ on this topic

2020	Examine the nature of civil liberty movements in India.
2019	Write short note on the significance of Chipko Movement.
2018	Examine the various causes of agrarian crisis in India.
2018	Critically analyse the environment movement in Tuticorin, Tamilnadu.
2014	Comment on: The dilemmas of the human rights movements in India
2014	Examine the scope and limitations of women's movements in India.
2014	Explain how peasant movements promoted nationalist ideas during the 20 15 struggle for Indian independence.
2013	Comment on: Compare and contrast Chipko Movement with Narmada Bachao Andolan.
2013	Point out and comment on the historic importance of the document 'Towards Equality (1974)', for women's movement in India.
2012	Discuss the impact of environmentalist movement on government policies in recent years.
2010	In what ways do civil liberties and human rights movements influence the working of Indian democracy? Give your answer with suitable examples.
2009	The environmental movements have challenged the policy and pattern of economic development in post independent India. Analyze with examples

Social Movements

What is social movement?

- The term social movement is used to denote a variety of collective attempts to bring about a change in the existing social and political structure through institutional and non-institutional means.
- Generally, a movement has a class base and intends to alter the existing social order and power structure or influence policy decisions and distribution of resources at the national or regional level where it takes place.
- **Paul Wilkinson** gives the following working concept of 'social movement'
 1. A social movement is a deliberate collective endeavour to promote change in any direction and by any means, not excluding violence, illegality, revolution or withdrawal into 'utopian community'.

2. A social movement must evince a minimal degree of organisation, though this may range from a loose, informal or partial level of organisation to the highly institutionalised and bureaucratized movement and the corporate group.
 3. A social movement's commitment to change and the *raison d'être* of its organisation are found upon the commitment to the movement's aims or beliefs and active participation on the part of the followers or members.
- According to **Herbert Blumer**. "Social movements can be viewed as **collective enterprises to establish a new order of life**. They have their inception in the condition of unrest, and derive their motive power on one hand from dissatisfaction with the current form of life, and on the other hand, from wishes and hopes for a new scheme or system of living."

Philosophy behind social movements?

A variety of approaches and typologies have been propounded to analyse and classify movements.

1. **Deprivation Theory**- According to proponents of the deprivation theory, some social movements are born when certain people or certain groups of people in a society feel that they are deprived of a specific good, service, or resource.
2. **Resource Mobilization Theory**- The resource mobilization theory invokes the importance of the availability of suitable resources in the birth of a social movement. This theory thus says that when some individuals in a society have certain grievances, they may be able to mobilize necessary resources to do something to alleviate those grievances.
3. **Political Process Theory** -Political process theory treats social movements as a type of political movement in that the origins of a social movement are traced to the availability of political opportunities. More precisely, this theory looks at the social movement in question to that of the state – or the power of the government in charge.
4. **New Social Movement Theories** -The new social movement theories (the term "theory" is not appropriate because it is not one specific theory, but a smorgasbord of somewhat different theories) arose during the 1960s

Evolution of Social Movement?

The term social movement was introduced in 1850, by the **German sociologist Lorenz von Stein** in his book, **History of the French Social Movement from 1789 to the Present (1850)**.

Charles Tilly believe that Social movements as defined **did not exist before the late eighteenth century**, although individual elements like campaigns have a longer history.

- Tilly argues that the early growth of social movements was connected to broad economic and political changes including parliamentarization, market capitalization, and proletarianization.

Evolution of social movements

1. Political movement that evolved in late eighteenth century, like those connected to the **French Revolution** are among the first documented social movements, although Tilly notes that the **British abolitionist movement** has "some claim" to be the first social movement (becoming one between the sugar boycott of 1791, and the second great petition drive of 1806).
2. **The labour movement and socialist movement** of the late **nineteenth century** are seen as the prototypical social movements, leading to the formation of communist and social democratic parties and organizations.
3. From 1815, Great Britain after victory in the Napoleonic Wars, entered a period of social upheaval. Similar tendencies were seen in other countries as pressure for reform continued, for example in

Russia with the Russian Revolution of 1905 and of 1917, resulting in the collapse of the Russian State around the end of the First World War.

4. In 1945, Britain, after victory in the Second World War, entered a period of radical reform and change. In the 1970s, women's rights, peace, civil rights, and environmental movements emerged, often dubbed "New Social Movements." Some find in the end of the 1990s, the emergence of a new global social movement, the anti-globalization movement.
5. Some social movement scholars posit that with the rapid pace of globalization, the potential for the emergence of new types of social movement is latent—they make the analogy to national movements of the past to describe what has been termed a **global citizens movement**.

Changing nature of social movement –Old social movement and new social movement

Distinguishing the New Social Movement from the Old Social Movements

Basis of difference	Old social movement	New social movement
Ideological orientations	Old social movements are materialistic.	New social movements are post materialistic.
objectives	Old social movements deal with livelihood issues.	New social movements deal with quality of life issues like sustainable development.
Class composition	Old social movements are the movements of lower classes, workers	New social movements are primarily the movements by middle classes.
leadership	Whether old or new, the leadership has primarily come from the advanced sections of middle classes	Advances section provides the leadership.
Techniques	Old social movements primarily used political techniques. Use of force, protests, demonstrations. They take direct action to gain political and economic powers	New social movements use multiple mediums like art, literature, theatre, nukkadnatak, movies etc. Their main focus is not on capturing power, but on raising the consciousness.

Social movements and democracy relation

Social movements play **positive role in democracy in different ways**

1. First, Social movements are the outcome of **people's political consciousness**. It is an expression of people's consciousness for asserting their demands.
 - a. It is the **most significant feature of a participatory democracy**.
2. Second, Social movements encourage participation of people on political issues. While articulating agenda of the struggle the leaders discuss/explain various aspects of the issues with the participants. Such process of discourse also contributes in developing and sharpening consciousness of the people. Political participation and consciousness of the people are backbones of democracy.

3. Third, success and effectiveness of social movements depend on extent of mobilisation. Greater mobilisation tends to expand political horizon and lead to further democratisation of society.
4. Fourth, Social movements express aspirations, needs and demands of the people who can only assert through collective action and become effective. They keep the policy makers on toe and accountable of their decisions.
5. Fifth, number of social movements influence policy makers and compel them to enact laws to meet their demands – advancing or protect their interests.

However, it should be emphasised that all social movements per se do not necessarily lead to more democratisation

1. History has witnessed in India and elsewhere that some social movements oppose social transformation. They may be called counter-movements. People are mobilised to resist change coming from the oppressed sections of society.
 - a. Hitler, the architect of the National Socialist German Workers' Party, mobilised Germans in 1930s against Jews, Communists and liberals.
2. **Rajni Kothari** does not justify all types of 'direct actions'. He said in 1960 that the action is desirable 'only if the political change desired by the group involved in direct action offers a greater scope of political freedom than is offered by the existing political arrangement'.

Relation between social movement, pressure groups and political party?

Social movements are also a type of collective behaviour like political parties and pressure groups. The study of social movements is also the main concern of political sociologists. Pressure groups, political parties and social movements are **interchangeable**.

- For example -**Indian National Congress** started as social movement, changed into pressure group and then into a political party.
- **AAP** started as a social movement and became a political party.

Civil Liberties & Human Rights Movements

Civil Rights

Civil rights are the rights given by the state for ex; FRs are civil rights. Rights which are considered necessary for **civilized existence** are called as civil rights e.g. Right to life, liberty, property, equality before law, right against arbitrary detention etc. are considered civil rights.

Socialist world emphasized on social and economic rights which are now considered as democratic rights. For example; DPSP contains democratic rights.

Civil rights are based on "**philosophy of liberalism**". The basic purpose of civil rights is to check the arbitrary exercise of power by the executive and to maintain the rule of law.

History of Civil Rights Movement in India

- Indian freedom struggle was not just a movement for independence, but it was the largest civil rights movement.
- Early nationalists' demands for basic freedoms like, freedom of press, greater representation in assembly, agitation against Rowlett bill were all examples of civil rights movement.
- **Pt. Nehru was one of the prominent civil right activist.**

- On 7th Nov 1936, 'Indian Civil Liberties Union' was established at the initiation of Pt. Nehru.
- Rabindranath Tagore was made President and Sarojini Naidu was made working president.
- Pt. Nehru promised that there will no black law in independent India.

Civil Rights in Constitution of India

- Constitution of India is a revolutionary document.
- It is perhaps the first constitution which incorporates the spirit of human rights.
- In India, FRs are also available to non-citizens. Indian constitution also has a scheme of social and economic rights.
- It was unfortunate that the provision related to **preventive detention** has been incorporated in the constitution, and that too in part III of it which became a major human right issue in the post –independence period especially during the emergency time.
 - **As per the Recent amendments** in the Acts like UAPA in 2019 - The Central Government will be having the power to **declare an individual as 'terrorist'**. Which has bring to the fore a debate by the civil rights activist on its **misuse** by the government for the suppression of voice against the govt.

Art 22 provides certain protection to the person detained under preventive detention. In other countries, preventive detention laws are only applied in case of emergencies like war, but in India, it can be implemented even during normal times.

Civil rights in post independent India.

Post-Independence there was no significant activism in civil rights until 1960. There has been decline in the Rule of Law and the rise of police state or overdeveloped state in India after independence. There was a growth of executive high-headedness, corruption towards 1970s.

After 1970's

We see the beginning of the new phase of civil rights activism in the country. By this time the nostalgia of freedom movement was over, economic failure of govt. was on surface. There was growth in anti-price-rise agitation. Jaiprakash Narayan called for '**total revolution**'. He even called for armed forces, not to obey the orders of the govt.

Under the inspiration of JPs, the first and only one HRs organisation which brought liberals and radical together into existence in 1975 (PUCLDR = People union for civil liberty and democratic rights). However, after emergency organisation has bifurcated into PUCL & PUDR.

Emergency

Emergency was darkest hour for India's democracy. It was trial period for India's democratic values.

Govt. imposed emergency on the ground of internal disturbance. Govt. called for committed bureaucracy and committed judiciary.

Fortunately, democracy survived. Not only democracy survived, it has strengthened the democracy in country.

- There was proliferation of civil rights organizations like Citizens for Democracy, Association for Democratic Reforms (ADR)
- People Union for Civil Liberties etc.

led by lawyers like Shanti Bhushan, who preferred the path of judiciary to ensure the Rule of Law. After emergency, judiciary also became an active participant in India's civil rights movements.

Human Rights Movements in India

From 1980s, around the world, there has been growth in the **consciousness of human rights**. In case of India also a new phase of activism started in this period.

1. In the **world** –
 - a. As the human rights movement expanded in the 1970s, new organizations cast themselves as watchdogs, with particular and explicit attention to policy concerns. **Human Rights First**.
 - b. **Human Rights Watch (HRW)** was founded as a public “committee” to monitor the 1975 Helsinki Accords which promised to bring human rights reforms to the Warsaw Pact countries
2. In **India** – In 1980's the voices were raised by the **Narmada Bachao Andolan** Activist against the Sardar Sarovar dam constructions on the Narmada River for **the rights of the tribal people**.

Civil society working with judiciary has led to the beginning of a new phase of human rights activism.

Activist judges like **PN Bhagwati** institutionalized **PIL (Public Interest Litigation)**. PIL proved to be a revolutionary step in providing access to justice to marginalized sections.

Supreme Court, which has been reluctant with respect to Directive Principles, became the champion of Social and Economic rights. It has given wide and substantive interpretation of right to life, which includes rights like

1. **Right to education** – In **Mohini Jain and Unnikrishnan vs State of Andhra Pradesh** ruled that the right to education is a fundamental right.
2. **Clean environment, safe drinking water**- In **Subhash Kumar v. State of Bihar**, the Supreme Court held that the right to life under Article 21 of the Constitution is a fundamental right and includes the rights to free water and free air from pollution for the full enjoyment of life.
3. Right to life for not just animal existence but to live with dignity – **Menaka Gandhi case**.

Human rights in India after Globalization

Globalization has increased the number of advocacy groups in India. It has resulted in various international NGOs like Amnesty International, opening their offices in India and have actively participated in Human Rights movement. UNHRC conducts Universal Periodic Review (UPR) of member countries. Up till now, there have been 3 UPRs of India (2008, 2012, 2017). Govt. of India have also established institutional mechanisms like NHRC established in 1993 , Right to Information (2005)etc. However, GOI has not been able to meet targets it had taken up after 1st UPR.

Prominent Human Rights Concerns in India.

1. Large number of under trials.
 - a. **70% prisoners in India are undertrials**. At the end of 2019, 3.28 lakh prison inmates were undergoing trial, while 1.42 lakh were convicted.
2. Poor situation in prisons.

3. Human Rights violation by members of armed forces in insurgency affected areas. And their protection under AFSPA
 - a. the Armed Forces Special Powers Act (**AFSPA**) is back in **controversy** after Indian Army's para commandos **shot 14 civilians in Nagaland's Mon district**.
4. Extremely slow judicial system.
 - a. The **Indian judicial** process is now commonly associated with inordinate **delay**. The entire court **system** is overburdened with cases and the **slow** disposal rate.
5. Presence of colonial laws like IPC sec 124 A.
6. Misuse of preventive detention laws against political opponents.
7. Caste and religion based violence and exclusion.
 - a. Crime against Scheduled Castes (SCs) and Scheduled Tribes (STs) saw an increase of over 7% and 26% respectively in year 2019 compared to 2018, according to the annual Crime in India 2019 report published by the National Crime Records Bureau (NCRB).
8. Negative sex ratio.
9. Hunger and **Malnutrition**
 - a. India was ranked 101 out of 116 countries in the recently released Global Hunger Index. It was **one among the 31 nations where hunger has been classified as "serious"**. **The country's rank has been on the downward trend since 2016**

Above analysis shows that human right activism in India has not resulted into any qualitative improvement. India's commitment towards protection of human rights is more of a rhetoric than reality.

Scholar's View

According to **Upendra Bakshi**, there is no human rights movement in India. It faces challenge of **LEGITIMACY CRISIS**. What we find is not human right movement but **HUMAN RIGHT INDUSTRIES**. Advocacy groups, employee management graduates rather than social activists.



These organizations act with **CORPORATE APPROACH** rather than attitude of social service. They lack legitimacy in the country because their approach has been biased. They have raised human rights issues by member of armed forces but hardly talk about human right violation by militant organizations of innocent civilians or killing members of armed forces, paramilitary forces by militant groups.

According to human right activist **Nandita Haksar**, human rights movement in India has to work within defined limits. Indian state does not tolerate any activism going beyond the pertinent of national discourse. Whenever govt. adopts 'zero tolerance' towards terrorists, it ends in zero tolerance towards human rights.



Concluding line

It is to be noted that so long India will continue to suffer **threats to territorial integrity**, there will always be a justification with govt. for the violation of civil rights. However, to enhance the credibility of India, it is necessary that govt. brings reforms in NHRC, give greater powers it with respect to violation of human rights even by members of armed forces. Govt. has to ensure discipline among enforcement agencies. There is also an urgent need for police reforms, prison reforms, judicial reforms, criminal justice system reform etc.

Women Movements

Introductory part

The women's movement placed the women's questions in a new perspective and working towards just order was conceptualised in radically different terms. The enormity of the discrimination women faced and their issues like denial of basic constitutional and human rights, their experience of violence and the cultural practices which their subordination was invisible, began to coalesce around feminist consciousness and this provide backdrop to the emergence of the women movements.

Neera Desai observes that the women movement is the organised effort to achieve a common goal of equality and liberation of women and it presupposes sensitivities to crucial issues affecting the life of women.

For a concerned action to move towards the objective, there has to be some unifying **ideological thread** for various units."

On the basis of the ideological paradigm **Gail Om veldt** classifies women's movements into two types

1. **Women's equality movements**- these movements may not directly challenge the existing economic or political or family structure, but rather aim at attaining an equal place for women in it and at abolishing the most open remnants of feudal patriarchy.
2. **Women's liberation movements**. The women's liberation movements directly challenge the sexual division of labour itself.

Jana Everett classifies women's movements on the basis of two different ideologies of feminism.

1. **Corporate feminism** claiming a larger role in politics for women on the grounds that they have a special contribution to make as women
2. **Liberal Feminism**, claiming that the rights of men should be extended to women on the grounds that women are equal to men and thus should have the same rights.

Women Movement in India Before Independence.

Women Movement in India was started by liberals like Raja Ram Mohan Roy and Ishwar Chandra Vidyasagar. British government has also brought legislations like Widow Remarriage Act, Prevention of Sati act, Sharda Act. There was growth of human Organisation in different parts of the country.

Issues of women movement before independence phase

1. Women participate in large number and in various movements along with other groups but this does not amount to a women's movement.
2. A women's movement exists only when gender oppression, specific to this group are called into question but the participation of women was largely for the national freedom.
3. There was effective mobilisation. Women **lacked concrete means** for organising themselves into a unit.
4. They had no solidarity of work and interest as that of working class. They are not situated in a space that creates community feeling, instead of dispersed.

Achievements

1. Gandhian movements were not directly aimed at women concerns yet They **brought consciousness** among women and **ended the stigma** with respect to the participation of women in public sphere.
2. The most prominent organisation during freedom movement was All India Women Conference setup in 1927. The achievement of the organisation was Sharda Act 1929 and Lady Harding College in Delhi.
3. Some prominent women freedom fighters who worked for women during Freedom struggle
 - **Savitri bai Phule** - **Pioneer of India's feminist movement**. She played an important and vital role in women's education movement in India.
 - **Pandita Rambai** -An Indian social reformer who **championed the cause of emancipation of women**.
 - **Sarla Devi** - An educationist and political activist, who **founded Bharat Stree Mahamandal** in Allahabad in 1910. This was the **first women's organization** in India. One of the primary goals of the organization was to **promote female education**.

Women Movement after Independence

1. Phase 1. Up till 1970's

- a. **Aparna Mahanta** calls this years as **grey years of women movement**. She suggests that was greater activism in women movement before independence. Activism was stopped after independence. It was thought that there is no need for movement against indigenous government. Government will automatically take care of women concerns.
- b. Constitution of India is a Revolutionary document in many sense. It has given equality of status to women equal rights including Right to vote and to stand in elections.
 - i. **Article 15(3)** makes it possible for the state to create special provisions for protecting the interests of women and children.
 - ii. **Article 16** provides for equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.
 - iii. **Article 42** directs the State to make provision for securing justice and humane conditions of work and for maternity relief.
 - iv. **Article 51A (e)**enjoins upon every citizen to renounce practices derogatory to the dignity of women.

2. Phase 2. 1970s and 80s- Phase of revival and activism.

- a. UN declared **70s as a decade for women**.
 - i. It has directed the government to prepare the report on status of women. Government of India had set up a committee to enquire the status of women in India.
 - ii. The report was published with the title **Towards Equality 1974**.
 - iii. It was an eye opener as it brought shocking facts with respect to women like
 1. declining sex ratio
 2. Gender based violence,
 3. Discrimination and declining participation of women in political and economic sphere.
 - iv. It also recommended to constitute watchdog body like National Commission for Women.
- b. **It has resulted into changing the approach of government towards women**. The process changed from welfare to development.
- c. Growth of women organisations including organisation of Muslim women like Majilis, Aawaaz-e-Niswaan, organisation of dalit women like All India Dalit Women Conference.

d. Decade 80s was high of activism- Prominent issues in 80's was

- i. Increasing number of dowry death-
 - ii. **Mathura rape case-** A case of custodial rape in India of a tribal girl.
 1. The nationwide anti-rape campaign in 1980 resulted in the emergence and proliferation of autonomous women's organisations in several cities and towns of India
 - iii. **Sati at Deorala-** A case of Sati practice in post independent India. Roopkuvarba Kanwar was a Rajput woman who was burned alive at Deorala village of Sikar district in Rajasthan.
 - iv. **Shah Bano judgement-** Shah Bano case, was a controversial maintenance lawsuit in India, in which the Supreme Court delivered a judgment favouring maintenance given to an aggrieved divorced Muslim woman.
- e. Approach of government also changed from development to empowerment. Since 6th five-year plan, government has introduced gender component in each plans.

3. Phase 3 1990s.

- a. By 1990s **new trend emerged** due to **worldwide growth of feminist movements**. The nomenclature of women organisation changed. They became more inspired by **Radical feminism** and the movement in this phase started developing link to the global feminists movements. The new names adopted were: Saheli, Vimochana, Manushi, Jagoree etc.
- b. Issues in this phase
 - i. Towards 1991 women movement started getting divided on the lines of caste and religion. Initial solidarity was lost.
 - ii. From 1990 onwards Indian politics is getting shaped more by caste and religion in that women issues also get mixed up.

Overall assessment of women movement

According to **Madhu Kishwar**, the only achievement of women movement has been some bizarre pieces of legislations.



According to **Neera Desai and Usha Thakkar** women movement faces following challenges

- Challenge of identity
- Women issues are not just women issues
- Division and ideological line along with caste and religion.



So far they have never presented any challenge any charter of demands.

According to Samita Sen

- Women movement is hugely divided on the lines of caste , religion and the solidarity and sisterhood lacks.
- There is a need of viable, feminist politics.
- They need transformative agencies going beyond class, caste and religion.



Issue of reservation of women

Discussion on reservation before Independence

- Views of Pandit Nehru

- He opposed reservation. He argued that it compromises merit and if introduced it cannot be rolled back.
- **Sarojini Naidu was also against reservation.** According to her, it will impact the confidence of women. Women can be elected on the basis of their merit.

Towards equality report 1974

It opposed reservation in Parliament and assembly but do favoured reservation in local bodies. Its approach was reformative rather than radical women issues. It is wrong to think that men can not represent the interest of women. In India women movement was started by progressive men. Both men and women should work together for the cause.

Scholar's view on women reservation

- **Ela Bhatt of SEWA.**
 - She opposes women reservation and suggest that government should focus on economic empowerment.
- **Shirin Rai – feminist scholar**
 - She also opposes reservation because it does not serve the purpose. She gives the example of Pakistan. Pakistan national assembly has a reserved seat for women but it does not mean that it has resulted into improvement in the status of women.

Those who support reservation of women in legislatures

- **Feminist scholars Laura Keenan** support women reservation and she held that Women representation has been stagnant for below the proportion for most of the Years. As per the latest Election Commission of India (ECI) data: As of October 2021, Women represent 10.5% of the total members of the Parliament. Which necessitates the reservation.

Reservation in Panchayat

73rd CAA introduced reservation for the women in Panchayats with the vision that political empowerment will be a means to achieve the other form of empowerment. It was provided in the background that patriarchal structure was most entrenched at village level and it needs to be fought from the root level.

The scholars who were **sceptic** of the empowerment

- **Sudha Pai** - She held that reservation will not lead to true empowerment of women but it will give rise to so called "Pati Panchayats". She believed that there are lack of clarity w.r.t the role of women.
 - Sudha Pai cautioned, after brief study of three villages from Meerut district in Uttar Pradesh, that female literacy, independent voting rights and change in the status in the family and society are required for women to play active role in the village politics.

Those who have positive view

1. Rohini Pandey

- Reservations for women **have reduced prejudice against female leaders.**
- **Enhanced respect for woman**

2. Gabrielle Kruks Wisner

- Reservation in Panchayat has been a key for women's social mobility.

3. Scholars like **Esther Duflo and Raghwendra Chattopadhyay**

- Districts with female sarpanch/Pradhan -significantly greater investments are made in drinking water, a priority public goods issue for women.

Concluding line

- Feminist Scholar **Laura Keenan** believe that if Women are not elected to the parliament it does not mean that they are not talented. Not all members present in a parliament are on the basis of merit and efficiency. Women are not able to get elected because of **the social environment**, which remains poor and hence **catalysts** like reservations are **needed**.

Environmental Movements

Global environmental movements started in 1960s with the publication of **Rachel Carson's book "The silent spring"**. The next important event for the rise of environmental movements at international level like **Stockholm Conference, 1972** (UN Conference on Environment, 1972). The publication of the report - **"Limits to Growth" report by Club of Rome, 1972.**

GoI has been at the **forefront of Global Environmental talks**. It strongly advocated the principle of **"CBDR"** i.e., common but differentiated responsibility. It raises the voices for equity.

However, back home there is no real and substantive efforts by govt. The approach of govt is to bring certain legislation like Air Act, water act, environmental protection act, EIA, Project Tiger, Ganga Action Plan, Yamuna action plan.

Environmental movements in India

In the book **"This Fissured land: An ecological history of India"**, co-authored by **RC Guha and Madhav Gadgil** have argued that nature based conflicts revolving around competing claims over forests, land, fisheries have increased in frequency and intensity, thereby adding a new dimension of Indian democracy and civil society, the environmental movement also poses new ideological notions of meaning content and patterns of development in India.

Identification of environmental movements in India

Why there is a **problem** in identification?

1. Environmental movements in the **West** can be understood clearly. They come under the category of **new social movements**.
2. However, environmental movement in **developing** countries like India, Brazil have **overlapping** features. They have the **features of both old and new movements**
3. The environmental protests in India cannot be seen separately from the **livelihood concerns**.
 - a. Even **Chipko movement** was not about protection of forests, it was about livelihood. It was assertion by the locals over their right to use the forest wealth. Unlike western countries, environmental
4. Movements in India are led by the most marginalised sections of the society.
 - a. For example, tribal people. One of the successful example of environmental protests is the protests by DONGRIYA KONDHS the most vulnerable tribes in NIYAMGIRI HILLS in Odisha.
5. Ramachandra Guha calls the environmental movements in the western countries as "**FULL STOMACH**", whereas in developing countries as **EMPTY STOMACH**

Types of environmental movements

In terms of approach towards environment we can categorise the movement into two types

1. **DEEP ECOLOGY**- where protection of environment is for the sake of environment
2. **SHALLOW ECOLOGY** - where protection of environment is for the sake of human use.

History of environmental movements in India

- In India we have seen protest against forest policies of colonial state by tribal.
- **Tribal movements** can be considered as **earliest environmental protests** in India, much before the beginning of environmental movement in the west. In 1921, **Mulshi Satyagraha** under the leadership of Senapati Bapat against the construction of dam in Lonavala hills to supply power to the rising industries in Mumbai is earliest protest against dams.

Beginning of Environment movements in Post-Independent India

Ramachandra Guha gives four phases in evolution

1. Phase I (in 1970's)

- a. In this phase, environmental movement was seen as "**interloper**" which attempted to break the consensus when Environmental movements were seen as the luxury of rich nations.
 - i. Environmentalists like Chandi Prasad Bhatt, Sunderlal Bahuguna were projected as CIA agents preventing the rise of India.
- b. During this phase, Marxists in India believed that, ecology is a bourgeoisie concept.

2. Phase II (in 1980's)

- a. This was the phase when **environmental journalism** started by persons like Anil Agarwal, Shekhar Pathak, Nagesh Hegde.
- b. Thus, environmental issues started getting media attention.
- c. Govt. also set up a department in 1980 which was upgraded to the level of ministry of environment and forest in 1985

3. Phase III (in 1990's)

- a. The growth of **professionalism**. The social scientists and natural scientists started producing the credible data, looking for the roots of environmental conflicts.

4. Phase IV (1990's onwards) –

- a. **Backlash** against environmentalism.
- b. Once, govt. **adopted neo-liberal model** based on private capital; environmental protests against mining, SEZ were seen as anti-developmental, anti-national. Since, the tribal protests increased, even left wing movements gained strength, environmentalists and human right activists were treated as anti-national.
- c. Earlier environmentalists were termed as "CIA agents" or anti-nationals. Now they were termed as "old fashioned socialist guys".

Prominent environmental movements in India

Development pattern in post independent India leading to environmental movement

1. The use and abuse of nature in contemporary India”, they have given the critique of the developmental model in our country since independence. They advocate empowerment of the people, proper valuation of resources and knowledge dissemination.
2. Next area of environmental movement has been protest against dams. **Nehruvian developmental model** gave primacy to industrialization. Large scale multi-purpose dams were to be constructed to provide support for growing industries.
3. Nehru called these dams as ‘temples of modern India’. However, temples of modern India brought lots of miseries to the people who were displaced because of dams. It also resulted into destruction of forest, submergence of villages. Govt. lacked any strong policy for rehabilitation and resettlement.
4. Tribal and the poor people were alienated from their land. They lost the means of livelihood and most of them became destitute, besides these people also lose their way of life, their culture, their identity.
5. This had resulted into **protest against dams**. The most well-known protest is Narmada Bachao Andolan (NBA)

Narmada Bachao Andolan (1985)

NBA led to the growth of new type of consciousness in Indian environmental movement. Many NGOs and middle class intellectuals got associated with movements. It also got sympathy from outside. Though NBA could not stop from going ahead with the project, judiciary again favoured govt. at the cost of the people but NBA has following achievements.

- It forced international donors like world bank to pull out of the project.
- It has forced govt. to take resettlement and rehabilitation issue more seriously.
- It has strengthened Indian environmental movements

NBA has been influenced by **Gandhian approach**. Strategies adopted by people include Satyagraha, Jal Samadhi etc.

NBA has inspired various other movements

- Protest against Tehri Dam at Vishnuprayag at Uttarakhand, against Subansiri dam in Arunachal Pradesh are other examples.
- At present, there are many groups which have come up and have formed “National campaign against big dam” and “All India forum” to protest.
- Some other environmental protest includes civil society protest against Jaitapur Plant and Kundakulam plant. They are opposing nuclear reactors.
- **Bhopal Gas Tragedy (1984)** and the way govt has handled it has generated fear.
- Recent disaster at Fukushima further strengthened people’s opposition.
- Civil society groups are working in various areas of environmental concern like air pollution, GM seeds, impact of pesticides, mining in Aravalli hills, project like Laasa, Adarsh society.

Other Prominent environmental movement in India

Chipko Movement

- Year: 1973-

Ramchandra Guha in his book, “**The Unquiet woods ecological change and peasant resistance in the Himalayas**” traces the **origin** of Indian environmental movement to the Chipko movement led by **Sunderlal Bahuguna** and **Chandi Prasad Bhatt, Gaura Devi** in hills of Uttarakhand in 1970s.

- a. **Leaders: Sundarlal Bahuguna, Gaura Devi, Sudesha Devi, Bachni Devi,**
- b. Aim: The main objective was to protect the trees on the Himalayan slopes from the axes of contractors of the forest.
- c. The women of Advani village of Tehri-Garhwal tied the sacred thread around trunks of trees and they hugged the trees, hence it was called the 'Chipko Movement' or 'hug the tree movement'.
- d. The then state Chief Minister, Hemwati Nandan Bahuguna set up a committee to look into the matter, which eventually ruled in favour of the villagers. This became a turning point in the history of eco-development struggles in the region and around the world.
- e. **Assessment of Chipko movement**
 - i. **According to R C Guha**, Chipko was a powerful statement against the violation of customary rights by state forestry which brought into focus a wide range of issues regarding forest policy and the environment debate as such.
 - ii. The movement adopted unique method of protecting trees known as Chipko or hugging trees. **Chipko movement (1973)** became source of inspiration for **Appiko movement (1983)** in south. It has also inspired tribal protest in Jharkhand and in Kerala for the protection of silent valley.
 - iii. Chipko movement was concerned with livelihood issues of hill people. Chipko movement was successful in forcing govt. to stop cutting of trees. It also led to change in forest policy of Gol. Post-Independence govt. continued with the policy of colonial state which viewed forest as reserve of state. It denied people their customary rights of forest produce.

Save Silent Valley Movement

- b. **Year:** 1978 **Place:** Silent Valley, an evergreen tropical forest in the Palakkad district of Kerala, India.
- c. **Leaders:** The Kerala Sastra Sahitya Parishad (KSSP) an NGO, and the poet-activist **Sughathakumari** played an important role in the Silent Valley protests.
- d. Aim: In order to protect the Silent Valley, the moist evergreen forest from being destroyed by a hydroelectric project.
- e. Kerala State Electricity Board (KSEB) proposed a hydroelectric dam across the Kunthipuzha River that runs through Silent Valley.
- f. Many feared that the project would submerge 8.3 sq km of untouched moist evergreen forest. Several NGOs strongly opposed
- g. In January 1981, bowing to unrelenting public pressure, Indira Gandhi declared that Silent Valley will be protected.
- h. In November 1983 the Silent Valley Hydroelectric Project was called off. In 1985, Prime Minister Rajiv Gandhi formally inaugurated the Silent Valley National Park.

Appiko Movement

- i. **Year:** 1983, **Place:** Uttara Kannada and Shimoga districts of Karnataka State
- j. **Leaders:** Appiko's greatest strengths lie in it being neither driven by a personality nor having been formally institutionalised. However, it does have a facilitator in Pandurang Hegde. He helped launch the movement in 1983.
- k. **Aim:** Against the felling and commercialization of natural forest and the ruin of ancient livelihood.

- I. Appiko movement is the southern version of the Chipko movement. The Appiko Movement was locally known as "Appiko Chaluvali". The locals embraced the trees which were to be cut by contractors of the forest department.

How the Environmental movement in south differs from the western countries?

Environmental movement in South	Environmental movement in western countries
Environmental Movements in South is led by poor whose livelihood are threatened	Environmental movements in Western countries is led by the scientists
Environmentalism in North is full stomach	Environmentalism in South is empty stomach .
Western movements are protectionist and conservationalist .	Environmental movements in Southern countries are Utilitarian and conservationalist

Scholar's view on Environmental movement in India

As per Sunita Narayan

- Environment is not about saving tigers and planting trees. Govt needs to look at its current development strategy which is neither pro-environment nor pro-poor. Environment is about democracy. Without giving powers to the people, decentralisation planning and Grassroot democracy we won't be able to achieve sustainable development.
- She has also compared the western protectionism and Indian. It is not about ecology rather social-ecology. It is human centred as found in the west. In west it is "protectionist conservatism". **In India it is "Utilitarian conservatism"**.



She has given the concept of **new environmentalism**.

1. In a developing country like India, with mass poverty, **we cannot ignore economic development**. Environmentalism is not against economic growth. It is only about looking at both people and development differently. It demands people should be seen as owners and custodians of natural resources. Similarly, the development has to be sustainable.
2. According to her, environmentalism is not about planting trees or protecting ties. **Environment is about democracy**. Environmental movement are about Resisting the commodification and monopolisation of natural resources, it is resisting inequitable distribution, It is resisting unsustainable use and finally It is resisting the exploitative power relations and resisting disempowerment of communities.

Vandana Shiva

- India's development path adopted by the government has been a resource intensive one and has seriously disrupted the ecological stability and life support systems existing for centuries



Ram Chandra Guha –

- He has been negative view on the achievements of environmental movements in India.
- He calls India as a "**Basket case of all sorts of environmental tragedies**."
- He sums up the achievement as following

"Polluted skies, dead rivers, disappearing forests, falling water tables, ever increasing hills of untreated waste, displaced peasants and tribes is what we see after 35 years of Chipko Movement"

Assessments of Environmental movements in India

Though we do not see an All India Environmental movements but environment movement has so far some **achievements** to its credit which include like

1. Creating public awareness about the importance of keeping balance b/w environment and development
2. Opposing projects which are inimical to social and environmental concerns. Show way forward for non-bureaucratic, participatory community based natural resource management system.
3. At the same time there are **challenges** faced by environmental movement.
 - a. Rapidly growing pollution accentuated by bureaucratic corruption and incompetence.
 - b. Solutions need expertise whereas civil society lacks it
 - c. Continuing natural resource degradation.
 - d. They have been opposing projects but have not been successful in pushing policy and legislative changes.
 - e. Ecological globalisation based on global rules shaped by the interests of the North.
 - f. Pollution control is yet not an electoral issue.
 - g. Humane rehabilitation policy
 - h. It has to go beyond firefighting approach against individual projects.
 - i. It will have to strategic on how it can play effective role.

Institutions like NGT, EIA, new approach towards rehabilitation. Despite all this environmental consciousness in the country remains poor. Environmental protest has been localised and ad hoc. These groups have adopted **fire-fighting approach** without long term strategy. They have been able to stall govt for some time but couldn't stop govt. Environmentalist lobby in India hardly exist or hardly have any pressure. Environment is not the issue of electoral democracy. Indian environmental movements fail to strategize itself. Middle class awareness and activism to the environmental issue remain minimal. There is not a single party where environment tops the manifesto.