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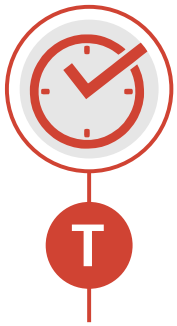
A

Application of Knowledge to Comprehend the Topic



S

Strategic Guidence to Tailor the Learning Process and Apporach Answer Writing



T

Time Management to Write Concrete and Concise Answer

TEST WRITING PATTERN

PAPER– 1

SECTION 1A	SECTION 1B
5 Tests	4 Tests

FULL LENGTH: PAPER 1
2 Tests

PAPER– 2

SECTION 2A	SECTION 2B
5 Tests	4 Tests

FULL LENGTH: PAPER 2
2 Tests

2 FULL LENGHT TEST

TOTAL NUMBER *of* TEST 24

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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.

1

CHAPTER

UNIFORM CIVIL CODE: ASPECTS OF ITS IMPLEMENTATION

Recently Gujarat announced that the State will constitute a committee headed by a retired High Court judge to evaluate all aspects for implementing the UCC.

A Uniform Civil Code is one that would provide for one law for the entire country, applicable to all religious communities in their personal matters such as marriage, divorce, inheritance, adoption etc. Article 44, under DPSP, of the Constitution lays down that the state shall endeavour to secure a Uniform Civil Code for the citizens throughout the territory of India and emphasises the importance of introducing a Uniform civil code throughout the territory of India. But there has been a strong opposition to its implementation. The main reason underlying the opposition is that the Personal laws are regarded as part and parcel of the religion of the respective community. Therefore it is argued that any reform in the personal law means interference in the matter of religion. During the constituent assembly debates also it was one of the highly debated topics.

CONSTITUENT ASSEMBLY DEBATES ON UCC

Through the analysis of the debates of the Constituent Assembly on the Constitutional provisions of the 'Uniform Civil Code' can be understood the ideological perspective in which it was supported and opposed.

Opponents of the UCC

- **Naziruddin Ahmad** from Bengal argued that certain civil laws in all communities were "inseparably connected with religious beliefs and practices". He felt the UCC would come in the way of Article 19 of the draft Constitution (now Article 25) which guarantees the right to freedom of religion subject to public order, morality, and health. He was not against the idea of a uniform civil law but it should be introduced through a gradual process and not without the consent of the concerned communities.
- **Muhammad Ismail- According to him *"The right of a group or a community of people to follow and adhere to its own personal law is among the fundamental rights and this provision should be made amongst the statutory and justiciable fundamental rights,".*** The right to follow personal law is part of the way of life of those people who are following such laws; it is part of their religion and culture. If anything is done affecting the personal laws, it will be tantamount to interference with the way of life of people who have been observing these laws for generations. This secular state which we are trying to create should not do anything to interfere with the way of life and religion of the people.
- **Alladi Krishnaswamy Ayyar-** He argued that religion was in danger as communities cannot live in amity if there is to be a uniform civil code.

Supporters of the UCC

- **K.M. Munshi-** He rejected the notion that a UCC would be against the freedom of religion as the Constitution allowed the government to make laws covering secular activities related to religious practices if they were intended for social reform. He advocated for the UCC, stating benefits such as promoting the unity of the nation and equality for women. He said that if personal laws of inheritance, succession and so on were seen as a part of religion, then many discriminatory practices of the Hindu personal law against women could not be eliminated.

- **Dr. B.R. Ambedkar** had more of an ambivalent stance toward the UCC. He felt that while desirable, the UCC should remain **"purely voluntary"** in the initial stages. He stated that the Article "merely" proposed that the state shall endeavour to secure a UCC, which means it would not impose it on all citizens.

After the debates, the amendments to protect personal laws from the UCC were eventually rejected and it was made as a part of the Directive Principles Of State under article 44. However there have been demands and attempts to bring UCC from time to time . Judiciary in various cases also directed the Parliament to frame a UCC in the case of Mohammad Ahmed Khan v. Shah Bano Begum popularly known as the Shah Bano is a case in point. The second instance in which the Supreme Court again directed the government of Article 44 was in the case of Sarla Mudgal v. Union of India and John Vallamattom v. Union of India.

Significance of the UCC with which it was envisioned to be implemented-

- The UCC aims to provide protection to vulnerable sections as envisaged by Ambedkar including women and religious minorities, while also promoting nationalistic fervour through unity.
- When enacted the code will work to simplify laws that are segregated at present on the basis of religious beliefs like the Hindu code bill, Sharia law, and others.
- The code will simplify the complex laws around marriage ceremonies, inheritance, succession, adoptions making them one for all. The same civil law will then be applicable to all citizens irrespective of their faith.

Obstacles in implementing UCC

- All Hindus of the country are not governed by one law, nor are all Muslims or all Christians. Not only British legal traditions, even those of the Portuguese and the French remain operative in some parts.
- It is erroneous to assume that India has different personal laws because of religious diversity as a result the law differs from state to state. Marriage among close relatives is prohibited in the north but considered auspicious in the south.
- Even registration of marriage among Muslims, laws differ from place to place. It was compulsory in J&K (1981 Act), and is optional in West Bengal, Bihar (both under 1876 Act), Assam (1935 Act) and Odisha (1949 Act).
- In the Northeast, there are more than 200 tribes with their own varied customary laws. The Constitution itself protects local customs in Nagaland. Similar protections are enjoyed by Meghalaya and Mizoram. Even reformed Hindu law, in spite of codification, protects customary practices.
- As an example, take Goa, often cited as a state that already has a UCC. But Hindus of Goa are still governed by the Portuguese Family and Succession Laws.

Considering India's huge diversity, Uniform Civil Code was envisioned to be an aspiration but was not envisioned to be implemented mandatorily-

Considering both benefits of UCC and obstacles in its implementation the goal of a UCC should ideally be reached in a piecemeal manner, like the recent amendment on the age of marriage. A just code is far more important than a uniform code. The demand for UCC has been demanded by some politically motivated groups in the context of communal politics rather than in public interests. If the constitution makers had intended to implement a uniform civil code in India, they should not have made it part of the State Policy Principles Directive pursuant to Article 44 of the Constitution.

Also there are already some provisions of UCC which have been a part of various laws-

- Indian laws do follow a uniform code in most civil matters — Indian Contract Act, Civil Procedure Code, Sale of Goods Act, Transfer of Property Act, Partnership Act, Evidence Act, etc. States, however, have made hundreds of amendments and, therefore, in certain matters, there is diversity even under these secular civil laws. Recently, several states refused to be governed by the uniform Motor Vehicles Act, 2019.
- Many of the matters pertaining to the Uniform Civil Code figure in item five of the Concurrent List in the Seventh Schedule of the Constitution that demarcates the legislative powers of the Union government and the states.
- Under the Muslim Personal Law (Shariat) Application Act, 1937, issues such as marriage, maintenance, dower, divorce and inheritance come within its purview. Many of these also find a place in item five of the Concurrent List.

In the context of its implementation ,R. Bommai has warned against "mixing politics with religion". The court has also expressed its worries whether a secular state should bring a code which can be perceived to be a threat to personal laws based on the religious beliefs of individual religions. The court had also questioned the wisdom of enacting a uniform law in "one go" in a pluralistic society**.** "A uniform law, though is highly desirable, enactment thereof in one go perhaps may be counter-productive to unity and integrity of the nation," the apex court had warned in its Pannalal Bansilal Pitti judgement. **Ambedkar in his speech in the Constituent Assembly had said, "No one need be apprehensive that if the State has the power, the State will immediately proceed to execute...that power in a manner may be found to be objectionable by the Muslims or by the Christians or by any other community. I think it would be a mad government if it did so."** In 2018, the Law Commission submitted in its report stated that a unified nation did not necessarily need "uniformity", adding that secularism could not contradict the plurality prevalent in the country. While saying that a UCC "is neither necessary nor desirable at this stage", the report recommended that discriminatory practices, prejudices and stereotypes within a particular religion and its personal laws should be studied and amended. The Commission suggested certain measures in marriage and divorce that should be uniformly accepted in the personal laws of all religions.

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2
CHAPTER

50 YEARS OF BASIC STRUCTURE

The Doctrine of Basic Structure is a form of judicial review that is used to test the legality of any legislation by the courts. **The doctrine was evolved by the Supreme Court in the 1973 landmark ruling in Kesavananda Bharati v State of Kerala.** Swami Kesavananda Bharati, leader of Edneer Mutt in Kerala, challenged the Kerala government's Land Reform Act. That Act aimed to restrict the management of his property, allegedly violating his fundamental rights under Articles 25, 26, 14, 19(1)(f), and 31 of the Constitution. In a 7-6 verdict, a 13-judge Constitution Bench ruled that the 'basic structure' of the Constitution is inviolable, and could not be amended by Parliament. **If a law is found to "damage or destroy" the "basic features of the Constitution", the Court declares it unconstitutional.** The test is applied to constitutional amendments to ensure the amendment does not dilute the fundamentals of the Constitutional itself. **The test is widely regarded as a check on majoritarian impulses of the Parliament since it places substantive limits on the power to amend the Constitution.**

What Led To Basic Structure Of Doctrine?

- The Kesavananda Bharati case (1973) emerged against the backdrop of significant political and socio-economic developments in India during the early 1970s. The country was led by Prime Minister Indira Gandhi, who was implementing a series of progressive measures aimed at bringing about structural changes and addressing inequalities in society.
- The government aimed for agrarian reform, bank nationalisation, and ending the royal privy purse. During the early 70s the nation was going through a democratic upsurge.
- The subalterns were demanding that the promises of the freedom struggle must be fulfilled. Middle and lower castes were asking for their share in the national wealth and prosperity. So the government embarked upon the idea of distributive justice and started taking steps for social and economic justice. This led to the tussle between judiciary and legislature.
- And the Kesavananda ruling was a culmination of a series of these tussles. After a reversal of key legislation including land reforms; nationalization of banks; abolition of privy purse- the Parliament brought in a constitutional amendment to give itself the power to amend any part of the Constitution and passed a law that it cannot be reviewed by the courts.
- The Court had to then examine the scope of the Parliament's power to amend the Constitution and the legality of the land reforms. The 13-judge bench gave 11 separate judgments and the doctrine was culled out as the majority opinion in the case.
- The Court ruled that while Parliament has vast powers to amend the Constitution, it cannot amend certain "basic features." On land reforms, the Court upheld the amendment that removed the fundamental right to property. The court ruled that in spirit, the amendment would not violate the "basic structure" of the Constitution.

What are the basic features of the Indian Constitution?

- In the Kesavananda ruling, the Supreme Court cited several aspects of the Constitution that could be identified as "basic features" of the document but added that it was not an exhaustive list.
- For example, judicial review, rule of law, federalism, and democratic republic structure are identified as basic features.
- **So there is no definition of the 'basic structure' and it is decided on a case to case basis.**

Significance

- The basic structure encompasses principles such as supremacy of the Constitution, sovereignty of the nation, rule of law, separation of powers, independence of judiciary, judicial review, and federalism. These were identified as unamendable features in the original Kesavananda Bharati case.
- Subsequent judges have supplemented the doctrine and expanded its scope to include concepts like secularism, free and fair elections, judicial independence etc. **Thus, the basic structure represents an abbreviation of the constitutional philosophy and vision of the framers.**
- While the precise contours remain debated, the basic structure doctrine has ensured certain fundamental ideals are preserved. It provides a conceptual foundation to protect against majoritarian impulses that could undermine constitutional morality. **The principles it upholds are crucial to India's democratic fabric.**
- **Kaleeswaram Raj** says that the doctrine of basic structure has undoubtedly helped maintain certain foundational principles of India's Constitution, though some are more widely accepted than others. At its core, it represents an amalgamation of concepts that provide a bulwark against totalitarianism.
- Parliamentary supremacy is crucial in a democracy. But an unchecked parliamentary majority can become undemocratic. This is especially true in a party-based system, where one party can dominate Parliament.
- The Basic Structure doctrine emerged to address this concern. It aims to prevent a dominant party from exercising untrammeled power to alter the Constitution's fundamental nature. By placing certain features like rule of law, judicial independence etc beyond amendment, it checks majoritarianism.
- **S.N. Sahu-** Dr B.R. Ambedkar used phrases such as "fundamentals of the Constitution" and "principles of the Constitution", and indicated that those fundamentals and principles should not be altered easily.The basic structure doctrine expounded by the Supreme Court embodied in it those principles which would enrich parliamentary democracy and negate any attempt to usher in a dictatorship.
- Dr. Ambedkar and Dr. Deshmukh both spoke about upholding the "principles of the Constitution" during the drafting of the constitution. They believed these core principles should be protected. This early emphasis on defending the Constitution's fundamental principles laid the groundwork for the later concept of the basic structure doctrine. Dr. Ambedkar argued strongly to defend the principles of the Constitution, and his vision should be called upon to protect the basic structure of the constitution today.

Criticism

- While the doctrine tries to protect core constitutional principles, it also constrains the legislature and executive from making desired changes. This can hamper democratic functioning and adaptation of the constitution over time.
- **Not in the Constitution**: A big issue with the basic structure doctrine is that it's not clearly mentioned in our Constitution. The Constitution doesn't say there are certain parts that can't be changed.
- **Judges overruling Parliament:** Parliament, which represents the de facto will of the people of India, has the overriding mandate to decide upon the present and future of the country. In every democracy, including England, where parliament is elected by the people through the adult franchise, it is the ultimate sovereign of the country. The basic structure idea lets judges cancel laws passed by Parliament if they think those laws don't fit with the Constitution's basic structure.
- **Messing with separation of powers:** The basic structure idea clashes with how our government's power is separated. It gives the courts the power to check and maybe stop changes made by the lawmakers. India has a separation of powers, as outlined in Articles 245 and 246 of the Constitution, which establishes three lists in the Seventh Schedule. India also has Article 254 and Articles 356 to 360, which give Parliament the power to amend the Constitution in Article 368. Therefore, reading down the powers of Parliament under Article 368 is beyond the scope of jurisdiction of the Supreme Court.
- The judges who are unpopularly called "wise men" are selected through an opaque and extra-Constitutional system known as the collegium system. Regardless of the appointment process, they do not represent the will of the people and also, they cannot go beyond the Constitution. **Raju Ramachandran** have argued that the power of "unelected judges" to strike down amendments to the Constitution on the basis of this doctrine is "anti-democratic and counter-majoritarian."

- **Interpretation subjectivity:** The essential structure thing gets understood differently by different judges. This means they can decide different things based on their own thoughts, and this might not be fair. The basic structure idea is unclear. We don't have a clear definition of what exactly falls under it. This means judges have to decide, and that can make things uncertain. No majority judgement lays out all the basic features. Judges have had a field day designating their personal preferences and describing them variously as "basic features", "elements", "structure", or "character". Here are some examples of what some judges have considered unalterable about the Constitution: a welfare state; equality of status and opportunity; an egalitarian society; balance between Fundamental Rights and Directive Principles, and socialism.
- In the 2015 ruling where the Supreme Court struck down the National Judicial Appointments Commission Act and the related Constitutional Amendment, "judicial independence" was identified as a basic feature of the Constitution. The five-judge bench struck down the amendment passed with an overwhelming majority by the Parliament (with just one member abstaining) by applying the basic structure doctrine. This, **Vice President Jagdeep Dhankhar** referred to as the judiciary undermining the sovereignty of the Parliament.

There are arguments on both sides regarding the merits and issues with the Basic Structure doctrine. Its current sacrosanct status stifles healthy debate. The basic structure doctrine also implies that one generation of Indians can tie the hands of all future generations. While there is no doubt that the Constitution is supreme and parliament cannot ride roughshod over it, it is also true that the Constitution is a "living" document. There is a need for more open discussion on reviewing the doctrine and its implications, without treating it as politically untouchable. At the same time, being an extra-constitutional judicial innovation, the doctrine's review and evolution must happen through informed democratic discourse. Pragmatism and separation of powers need to be kept in mind while shaping and applying this doctrine.

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3
CHAPTER

CURRENT DEBATE ON THE DOCTRINE OF THE BASIC STRUCTURE

Recently Vice President Jadgeep Dhankhar recently criticised the basic structure doctrine of the Supreme Court, and criticised the principal for being invoked to transgress judiciry's powers powers and curtail the legislature's right to act according to the will of the people. This has created debate around basic structure again where the fundamental question is -does Parliament have unlimited power to amend the Constitution or is it subject to inherent limitations? **What exactly the basic structure constitutes and does violate the principle of supremacy of the legislature which has elected representatives is a matter of debate.** Regarding the same it was upheld decades ago in The Kesavananda Bharati case, 1973 that the Parliament cannot use its constituent power to alter the basic structure or the essential features of the Constitution.

- Giving the principle of the basic structure, the judiciary in the Keshavanand Bharati ruling, gave the judgement with a slim majority of 7-6, that Parliament could amend the Constitution but not alter its basic structure. But there is no consensus on what the basic doctrine is and it is poorly defined too. So far no majority judgement has laid out all the basic features.
- **What constitutes the basic structure - has been given through various judgements. For instance the most commonly accepted basic features are the five upheld by Justice Sikri in the case of Kesavnanada vs state of Kerala: supremacy of the Constitution, republican and democratic government, secularism, federalism, and the separation of powers.**
- Here are some other examples of what some judges have considered unalterable about the Constitution: a welfare state; equality of status and opportunity; an egalitarian society; balance between Fundamental Rights and Directive Principles, and socialism. But the issue in the principle of the basic structure is that even the five basic features enumerated in Kesavananda are problematic because they are ill-defined.
- For example "The separation of powers' ', in the constitution does not specify how it is to be achieved. Another issue arises due to the overlapping of the executive and legislative powers in India's parliamentary system; in this case an American-type presidential system offering stricter separation will be more true to this basic feature then the Indian parliamentary system. Similarly, another basic feature, "the federal character of the Constitution", will be more in tune with an American-type setup of independent state governments not in the case of India.
- **In Justice Sikri's list of features, "the secular character of the Constitution" is not even structural in nature, because it requires a set of laws.** This discussion demonstrates the controversy related to the doctrine of basic structure; however , from time to time it has acted as check and balance over the parliament guarding the spirit of the constitution envisioned by the founding fathers. This has been explained in the following paragraphs-
- The need and the importance of the basic structure doctrine lies in the fact that the Indian Constitution has not specified a suitable institutional hierarchy, delineation of powers, and checks and balances. This issue can be understood better considering the following examples: the President is the topmost official, but the Constitution makes them subservient to the prime minister.
- Powers are divided between the Centre and States, but more than 50 subjects are assigned to the Concurrent List, allowing both to shirk responsibility. Parliament is given legislative oversight, but the government is guaranteed a majority under the anti-defection laws.
- In fact the basic structure doctrine itself was first invoked in the 1967 Golak Nath case, due to the Constitution's failure to be precise about the power of judicial review. The case pertained to the powers of parliament to amend fundamental rights.

Recently the basic structure has been used as a shield by the judiciary striking down NJAC regarding judicial appointments as the Constitution fails to provide a suitable mechanism for appointing judges. Besides imposing limits on Parliament amending power, the doctrine also acknowledges that the constitution can be radically changed by the people themselves. It thus emphasises simultaneously the importance of the elected representatives and the faith of the public and democratic character earned by non-representative institutions, including judiciary.

- The trajectory of the basic structure doctrine confirms that it evolves and gets consolidated when the representative institutions fail to maintain democratic essentials of the country. Hence the importance of the doctrine cannot be so easily dismissed; in fact, it has gained credibility to the extent of being part and parcel of constitutional democracy in India.
- After going through the above discussion it can be said that the basic structure is an abbreviation of our constitutional philosophy that offers a conceptual foundation against totalitarianism. It is a check on the unlimited powers of the parliament. **Supporting the same view Nani Palkhivala said, The Parliament cannot cease to be a creature of the Constitution and become its master.**
- Keeping this view in mind , the supremacy of the Constitution, sovereignty of the nation, the rule of law, separation of powers, independence of the judiciary, judicial review, federalism, and many such principles were held as part of the basic structure. Over the period different judges, in subsequent cases, the idea was supplemented and expanded.
- The argument that the phrase 'basic structure' is not specifically mentioned or defined in the Constitution does not diminish its value. The doctrine provides a set of intrinsic values or at least a collection of values which are supposed to guide the nation and provides stability to the constitution.
- Moreover, unlike other countries we do not have specifically mentioned provision regarding the same for example Article 79(3) of the German Constitution indicates that an amendment altering the essential feature of the 'Basic Law' is impermissible.
- Kaleeswaram Raj says "The basic structure is an institutional assertion against aggrandising majoritarianism if we are prepared to learn from the errors of the bygone days."

However it is also criticised for being against the spirit of representative democracy because due to the doctrine the court has appropriated powers which ordinarily belong to the parliament since it represents people.

- The minority bench in the Kesavananda Bharati case led by justice AN Ray endorsed the view that being people voice the parliament remained supreme in India constitutional governance which by implication means that it was authorised to enact legislations in accordance with what was required to fulfil the politico ideological mission that the elected representatives had.
- Also the basic structure creates an environment in which the constituent power gets transferred from the elected representative of the people to the judges of the supreme court which is a serious threat to constitutional democracy. **Highlighting the aspect of judicial overreach HJ Kania, the first chief justice of India remarked that in a democratic country the people make the laws through their legislature.** It is not the function of the court to supervise or to correct the laws passed by the legislature as an overriding authority.

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Principal Organs of the Union Government: Envisaged role and actual working of the Executive, Legislature, and Supreme Court.

CHAPTER 1

GOVERNOR'S POWER OF RESERVING THE STATE BILLS

The Governor under Article 153-167 in the Indian Constitution deals with the provisions related to the state governments of the country. The governor is a nominal executive head of the state. **He forms an important part of the state executive where he acts as the chief executive head**. But in recent times it has been seen that there are many controversies related to the Role of Governor.

Recent Controversies:

- **Tamil Nadu** Governor R. N. Ravi has 'withheld' assent for certain Bills passed by the Tamil Nadu Legislative Assembly. This follows the Supreme Court expressing 'serious concern' over inaction by the Governor on Bills presented for his assent.
- **Kerala** has accused the Governor of acting in a manner which "defeat the rights of the people" by withholding the passage of eight Bills on issues ranging from public health, higher education, lokayukta, etc.

RELATED CONSTITUTIONAL PROVISIONS

- **Article 200 of the Constitution lays down that when a Bill**, passed by a State Legislature, is presented to the Governor for their assent, **they have four alternatives** — may give assent to the Bill; may withhold assent to the Bill, that is, reject the Bill in which case the Bill fails to become law; may return the Bill (if it is not a Money Bill) for reconsideration of the State Legislature; or may reserve the Bill for the consideration of the President.
- The return of any Bill to the State Legislature for reconsideration is also to be done based on ministerial advice. However, Governors in the past have **exercised their discretion** in returning Bills, like the Tamil Nadu Governor with respect to the Bill prohibiting online gambling.
- As held by the Supreme Court in various cases including the **Shamsher Singh case (1974), the Governor does not exercise their discretionary powers** while withholding assent or returning a Bill to the State Legislature. **They are required to act as per the advice of the Council of Ministers**.

CONSEQUENCES DUE TO THE MISUSE OF POWER

- **Violated Fundamental Rights:**
  - "The conduct of the Governor in keeping Bills pending for long and indefinite periods of time is manifestly arbitrary and also violates Article 14 (right to equality) of the Constitution.
  - it defeats the rights of the people under Article 21 (right to life) of the Constitution, by denying them the benefits of welfare.
  - Senior advocate K.K. Venugopal and advocate C.K. Sasi said the delay had grown to be an "endemic" among Governors of certain States.
- **Threatening day to day governance:** The State had argued that the Governor was stymieing day-to-day governance in a way which was threatening to bring administration in the State to a grinding halt a "serious concern". ***The Governor is only the 'titular head' and that Bills being kept in limbo could result in the potential breakdown of parliamentary democracy.CJI***

- **Corroding the principle of cooperative federalism:** Nominating governors by the union government often results in their alignment with the ruling party, straining union-state relations and weakening cooperative federalism
- **Credibility of the institution of the governor:** The inordinate delay of governor/s in granting assent to the Bills diminish the credibility of the institution of the governor.
- **The conflict between governors' offices and elected governments:** It leads to a strained relationship between the state and the governor, destabilizes elected governments due to governance pressures, and disrupts the federal structure of the constitution.

Way Forward:

- **Sarkaria Commission of 1987**- Governor's power to reserve Bills for the consideration of the President should be used sparingly and **only in cases of potential unconstitutionality.** In all other cases, the Governor is expected to act on the advice of the state ministers.
- **Punchhi Commission of 2010** - Governor should make a decision on a Bill presented for assent within a period of six months.
- **R.Rangrajan-** Address the politicization of the gubernatorial post and suggest potential amendments to the Constitution to ensure responsible cooperation between Central and State Governments in matters related to the appointment and functioning of Governors. The Governor's role should align more closely with ministerial advice, with time limits for decision-making and provisions for the removal of uncooperative Governors.

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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.

1
CHAPTER

ELECTION COMMISSION OF INDIA: DEBATE ON THE APPOINTMENT PROCESS

Recently the Election commission of India (ECI) has been subjected to criticism for not acting independently that has led to debates over the appointment process of ECI. This has led to several questions related to complete executive control over appointments to the ECI, what should be the manner of appointment to preserve the independence of the ECI, and the fairness of elections? Whether Election Commissioners should be selected by the executive or by a collegium?

There are three "wings" of state: the legislature, the executive, and the judiciary, according to the classical understanding of modern democracy, with adequate degree of checks and balances between them provided by the constitution. **Traditionally, bodies that are involved with administrative and implementation issues — elections being among them — are believed to fall within the executive domain. However, in contemporary times, it is now commonly accepted that healthy constitutional democracies need what are known as "fourth branch institutions" (or, alternatively, "integrity institutions").** This "fourth branch" — in addition to the legislature, the executive, and the judiciary — needs to exist to enjoy basic rights and guarantees which cannot be effective without an infrastructure of implementation. This also implies that "fourth branch institutions" need to be functionally independent from the political executive because they are the vehicles for implementing rights against the executive. **The Election commission is one of them.**

According to S Y Quraishi ***"the Constitution intended the Election Commission to be fiercely independent and vested it with enormous powers of superintendence, direction and control over all elections. The apex court has repeatedly adjudged these powers to be absolute and unquestionable. It has declared Article 324 to be the reservoir of all powers of the ECI and has repeatedly declared free and fair elections to be part of the basic structure of the Constitution"*** . However in reality independence of the ECI is being questioned and according to S Y Quraishi the root cause is the flawed system of appointment of the Election Commissioners in which they are appointed unilaterally by the government of the day.

What Is The Appointment Process

- **Article 324(2) reads:** "The Election Commission shall consist of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the President may from time-to-time fix and the appointment of the Chief Election Commissioner and other Election Commissioners shall, subject to the provisions of any law made in that behalf by Parliament, be made by the President."
- As per the current process, the Law Minister suggests a pool of suitable candidates to the Prime Minister for consideration. The President makes the appointment on the advice of the PM.
- Also there is no bar or cooling period for post-retirement positions such as being appointed as a Governor or being nominated or elected to Parliament.

Flaws in the appointment process-

- CEC and ECs are appointed by the President of India. As per the current process, the Law Minister suggests a pool of suitable candidates to the Prime Minister for consideration. The President makes the appointment on the advice of the PM leaving the appointment wholly in the hands of the political executive
- **The ECs are elevated as CEC on the basis of seniority. In effect, it is the appointment process for ECs that requires scrutiny as there is scope for personal whimsy to play a role.** This makes ECs vulnerable to government pressure.

- **M.G. Devasahayam-** The Constitution [Article 324 (2)] provides that appointments of the CEC and ECs will be made subject to the provisions of an enabling law made by Parliament. **Yet till date there is no enabling law to appoint the Commissioners and this is being done through a process that can often appear arbitrary and non-transparent, and as a pure executive process, as if rewarding a favourite with a post-retirement sinecure.**
- While the Constitution goes to some degree to protect the members of the EC while officials are in office (such as, for example, a high threshold on the removal of an Electoral Commissioner), the power of appointment lies exclusively with the executive.
- At present, only the CEC is protected from being removed except through impeachment. The Constitution enabled protection for the CEC only as it was initially a one-man Commission now logically, there is demand that this should have been extended to the other two Commissioners, who were added in 1993, as they collectively represent the ECI.
- Unilaterally appointing the election commissioner is practised nowhere in the world. They are appointed by a collegium or even a full parliamentary scrutiny or interview. In some countries even the candidates are interviewed also on television for the nation to see.
- **According to Pratap Bhanu Mehta, Chapter on the Election Commission by E Sreedharan and Milan Vaishnav in Public Institutions in India documented, there are several unresolved issues. The number of commissioners the EC can have is not specified. A government can enlarge the Commission sometimes with a view to undermine the authority of existing commissioners. The other commissioners do not enjoy the security of tenure and constitutional status of the CEC.**
- According to the Supreme Court also that leaving the appointment wholly in the hands of the political executive is not a sound basis for preserving the independence of the ECI.

Implications of this process-

- **M.G. Devasahayam-** Because of the flawed appointment system, ECs end up owing their high position to the party in office or politicians in power. Of late, we have noted that the ECI has become opaque, secretive and non-responsive to the electorate and their genuine concerns while being subservient to the political executive and going as far, in some cases, as to do its bidding.
- **Anoop Baranwal vs Union of India , 2023** - ECI has plenipotentiary powers drawn from Article 324 of the Constitution of India to conduct free and fair elections. But the ECI is just not using these powers, because ECs are the appointees of the government of the day and not through an independent process of collegium.
- There are allegations against ECI of selective culling of the electoral rolls; EVM voting often not complying with basic and essential requirements of 'Democracy Principles' i.e., each voter able to verify that her vote is cast-as-intended, recorded-as-cast and counted-as-recorded; vulgar use of money power; corrupting and criminalising the elections; buying and selling of votes; brazen misuse of the media etc.
- Thus considering the reasons discussed above the process is criticised for compromising the autonomy of the ECI and creates doubts about the neutrality of the CEC and the ECs, and consequently, the neutrality of the Commission itself. This poses a serious danger to the fairness and integrity of not only the elections, but democracy itself.

In this context of the issues related to the appointment now there is going on a debate that there should be a collegium system to appoint the election commission of India.

Anoop Baranwal vs Union of India , 2023 case

- **In 2015, a public interest litigation was filed by Anoop Baranwal challenging the constitutional validity of the practice of the Centre appointing members of the Election Commission.** The crux of the challenge is that since there is no law made by Parliament on this issue, under article 324, the Court must step in to fill the "constitutional vacuum."
- A Constitution Bench of the Supreme Court unanimously held that the selection of the Chief Election Commissioner and the Election Commissioners would be done by a three-member Committee consisting of the Prime Minister, the Leader of the Opposition (or the leader of the largest opposition party in Parliament), and the Chief Justice of India. The Court, thus, altered the present mode of selection, where the CEC is appointed by the President, acting on the advice of the Prime Minister.

- The court also directed necessary changes with regard to the funding of the Election Commission from the Consolidated Fund of India and also to establish a separate Secretariat.
- This will be subject to any law to be made by Parliament This means that Parliament can undo the effect of the SC verdict by bringing in a new law on the issue.

ARGUMENTS IN FAVOUR OF THE JUDGEMENT

- **S Y Quraishi-** This new procedure will go a long way in bringing about greater credibility and impartiality to the institution. Most importantly, this will ensure that the perception of neutrality of the Election Commission will be maintained. The judgement also brings a certain uniformity in appointment procedures across institutions and statutory bodies responsible for independently maintaining democracy and institutional autonomy.

- **The Dinesh Goswami Committee-** The Dinesh Goswami Committee in 1990 suggested that the Chief Election Commissioner be appointed by the President (read: executive) in consultation with the Chief Justice of India and the Leader of the Opposition (and in case the Leader of the Opposition was not available, then consultation be held with the leader the largest opposition group in the Lok Sabha). It said this process should have statutory backing. It applied the same criteria to the appointments of Election Commissioners, along with consultation with the Chief Election Commissioner.
- **The National Commission to Review the Working of the Constitution, under Justice M.N. Venkatachaliah-** the Chief Election Commissioner and other Election Commissioners should be appointed on the recommendation of a body comprising the Prime Minister, the Leaders of the Opposition in the Lok Sabha and the Rajya Sabha, the Speaker of the Lok Sabha and the Deputy Chairman of the Rajya Sabha.
- **The 255th Report of the Law Commission, chaired by Justice A.P. Shah-** the appointment of all the Election Commissioners should be made by the President in consultation with a three-member collegium consisting of the Prime Minister, the Leader of the Opposition of the Lok Sabha (or the leader of the largest opposition party in the Lok Sabha), and the Chief Justice of India.

ARGUMENTS AGAINST THE JUDGEMENT

- The Court has acted in blatant disregard of the doctrine of the separation of powers.
- Making the CJI part of the appointments process for such an institution risks blowback to the court's authority which must be avoided — because the constitutional system of checks and balances depends on it.
- **MR Madhavan-** The CJI is now a party to the selection process, which may have political implications. Further, in case of a legal challenge, other judges may find it difficult to review a decision taken by a committee including the CJI.
- **Ashwani Kumar-** A virtual judicial rewriting of Article 324(2) in Anoop Baranwal by imagining an absence of law is a foray into dangerous territory. It can fuel intra institutional conflict and infract **"inter-branch equality",** thereby upsetting the delicate equilibrium of power dispersed between the designated organs of the State.

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2
CHAPTER

GENERAL ELECTIONS 2024: WOMEN REPRESENTATION

Low Female Candidacy in Indian Elections

- Only 9.6 per cent of all candidates in this election (and 11 per cent of candidates contesting on a party ticket) were women, according to data compiled by the Association for Democratic Reforms (ADR). This is barely up from 2019, when the share of women among candidates was nine percent.
- There is no apparent correlation between higher turnout of women and the election of women in those constituencies.
- To add insult to injury, several women who contested the polls faced misogynist remarks and jibes from their peers.

Women elected representatives

- The 18th Lok Sabha will have **74 women** out of 543 MPs, making up just **13.6% of the total**, a decrease from 14.4% in 2019. This percentage highlights a stark gender imbalance in representation.
- The data reveal that the all-India voting percentage dropped from 67.40 per cent in 2019 to **65.79 in 2024**. Remarkably, this decline in voter turnout has been sharper among women than men.
  - In **2019**, the proportion of electors who voted was marginally higher for women than men.
  - In **2024**, however, it was marginally lower for women than men. According to the ECI, 31.2 crore women voted this time. The all-India voter turnout was 65.80 per cent for men and 65.78 per cent for women.

ON Women voting pattern

- Of 31 States and Union Territories, the **voter turnout percentages of women exceeded that of men in 19 States**.
  - All States in the north-eastern region, barring Tripura and Sikkim, reported higher voter turnout percentages among women than men.
  - In at least 18 States or Union Territories, the turnout percentage of women was higher than the average turnout for the State. These included West Bengal, Himachal Pradesh, Manipur, Puducherry, Kerala, Goa, Uttar Pradesh, Bihar, Uttarakhand, and Nagaland.
- **India Lags in Global Women's Representation**
  - Globally, most parliaments are male-dominated, but India ranks even lower than many countries.
  - In 2023, 52 countries had parliamentary elections, and on average, 27.6% of the elected representatives were women. Overall, women make up 26.9% of MPs worldwide.
  - Before the 18th Lok Sabha, India was 143rd out of 185 countries in terms of women's representation, according to the Inter-Parliamentary Union (IPU) , now the ranking is likely to fall further by five or six positions.
- **N. Manimekalai**, director of the **Centre for Women's Development Studies**:
  - The number of women registering as voters has been on the increase for the past one decade.

- This would contribute to increased voting by women and a higher voter turnout in general, though this **did not happen in 2024**.
- She added that the **turnout of women voters from the Scheduled Castes and Scheduled Tribes** was higher than those from the general categories, indicating that women from economically and socially vulnerable communities do come out to vote, which is a welcome trend.
- She believes that women at the grassroots level in rural and urban areas commit to voting irrespective of region, caste, or religion and that the decline in voting percentage may often be attributed to the middle classes, migrant workers, and the elderly and disabled.

❖ **Need for National-Level Reforms**

- India has been a leader in increasing women's participation in local politics, but achieving this at the national level requires top-down reform and a commitment from political parties.

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Caste, Religion and Ethnicity in Indian Politics

1
CHAPTER

ROLE OF CASTE IN INDIAN POLITICS IN CONTEMPORARY TIMES : WITH REFERENCE TO OBCS

RISE OF OBCs IN INDIAN POLITICS

Above the untouchables in the Hindu caste hierarchy are those castes officially designated "Other Backward Classes" as defined by their low level of social and educational advancement. Predominantly rural, they **account for 52 percent** of India's population and in many states command significant political power. In response to that power a number of states have extended reservations in university admissions and government employment to the "backward castes. In Karn**ataka, for example, 50 percent of all state government jobs are reserved for OBCs.**

In 1980, the Backward Classes Commission, chaired by former Bihar chief minister **B. P. Mandal, issued its report,** recommending the reservation of 27 percent of all central government jobs for the backward castes in addition to the 22.5 percent already reserved for Scheduled Castes and Tribes. **It classified 3,743 castes and subcastes as OBC beneficiaries.** In August 1990, **Prime Minister V. P. Singh announced that his government would implement the Mandal recommendations.** The decision brought wide spread criticism and strong opposition from higher castes; especially students. In New Delhi and other urban areas in North India, violent protests, acts of self-immolation, and police firings raised the spectre of **"caste war."** The decision was criticised for the the timing and haste with which Singh made the decision, **it was argued that the Prime Minister sought to undercut his rivals in the Janata Dal for support among the backward castes and undermine BJP attempts to build Hindu solidarity.** The BJP saw the caste reservation issue as an attempt to divide the Hindu community to which it appealed, and it was this above all that spurred BJP leader Advani to undertake his rath yatra to Ayodhya-the action that precipitated the series of events that brought down the National Front government. In his fall, V. P. Singh assumed the position of a martyr for secularism and social justice, and these were the themes of his campaign in the 1991 elections.

This decision of VP. Singh has led to the "Mandalization" of Indian politics as a large, highly diverse group of thousands of castes has begun to acquire a new singular identity. **This decision of the VP. Singh has led to the "Mandalization" of Indian politics** as a large, highly diverse group of thousands of castes had begun to acquire a new singular identity and it led to their rise in Indian politics. **Political scientist Christophe Jaffrelot says in** such a context of social polarisation, **the OBCs were bound to make a greater impact at the time of elections, since they were in larger numbers.** The Janata Dal had already fielded larger numbers of OBC candidates in 1989. Not only breakaway factions of the JD like the Janata Samajwadi Party and the Rashtriya Janata Dal, but mainstream parties like the BJP and Congress too given that OBC candidates were increasingly successful at the polls: they could have ignored them at their own cost since, now, OBCs voted for their own and no longer for upper caste notables they had done before in the clientelistic framework initiated by the Congress system**. In northern India, the proportion of OBC elected representatives went from 11% in 1984 to 25% in 1996, whereas that of the upper caste elected officials fell from 47% to 35%.** V.P. Singh's prognosis thus proved true. He had announced that: 'Now that every party is wooing the deprived classes, with every round of elections more and more representatives of the deprived sections will be elected. This will ultimately be reflected in the social composition of the local bodies, state governments, and the central government. According to **Christopher Jaffrelot "A silent transfer of power is taking place in social terms" .** There was assertiveness of the OBCs in the political sphere, so much so that no party could ignore them as before. In fact, whatever the party in office, the chief ministers have mostly been OBC leaders in the Hindi belt .

The OBCs came to have a major Impact on politics in the 1990s as they formed their own parties and won control of state governments in North India especially Samajwadi party (SP) led by Mulayam Singh Yadav in U.P. and Rashtriya Janata Dal (RJD) led by Laloo Prasad Yadav in Bihar. Both of them gained immense popularity riding

on the 'Mandal issue' and were able to form governments in their respective state legislatures many times. However , the very size and diversity of the OBCs, make it very difficult for them to sustain their solidarity In U.P. and Bihar, for example, the domination of OBC politics by the Yadav's has generated resentment among the Kurmis and other OBCs who resent the bias shown by Yadav leaders in favour of their caste fellows. **The very notion of the OBCs as a coherent community becomes threatened by the diversity and competition among the thousands of castes that make up the OBC community.**

Nevertheless , now OBCs have carved out a significant spot as a political category in Indian Politics to illustrate the point - **Political scientists Christophe Jaffrelot and Gilles Verniers have pointed out that the Lok Sabha became more representative of the caste composition of India between the late 1980s and 2004,** when the proportion of upper caste parliamentarians declined from nearly half to 34 per cent, while that of OBC members went up from 11 to 26 per cent. **This was largely due to the emergence of regional parties with a strong OBC representation. However, Satish Deshpande says, this trend has been reversed since 2009 as the regional parties have lost ground,** and the **2014 elections** have returned a Lok Sabha where **upper castes are nearly 45 percent and the OBC have declined to about 20 per cent.**

However, **the 2019 elections have demonstrated the centrality of OBCs in Indian Politics. This** is argued considering the place of OBCs in political calculations of the major parties. **The rise of the Bharatiya Janata Party (BJP) coincided with the mobilisation of the Other Backward Classes (OBCs). In the case of BJP, today the OBCs are the backbone.** Also, the strategy of the BJP is geared towards consolidating the OBCs and their aspirations. For example in Uttar Pradesh, the Bharatiya Janata Party (BJP), after 2014, has defeated the main Mandal party, the Samajwadi Party (SP), in every single election. **According to the Lokniti Survey , in Madhya Pradesh BJP gained from a huge shift of Adivasi and OBC voters between the Assembly and Lok Sabha polls. Ajay Gudavarthy says *"OBCs, in fact, lend the pan-India character to the BJP-RSS combine".*** In Telangana, for instance, the OBCs are mobilised through organising Vinayak Chaturvedi and Hanuman Jayanti . Recent upheaval in Bihar politics also point to the significance of OBCs for political parties as many scholars like **Subrata Mitra argue** that political shifts in Bihar can have implications for Indian politics too.

MERITS AND DEMERITS OF THE OBC CASTE POLITICS

Demerits

- The upsurge of OBCs has been **criticised for promoting 'vote-bank politics' and fragmentation of polity,** which has led to unnecessary delay in decision making and for promoting group rights in place of individual rights.
- It has been claimed that **some castes among the OBCs, have been able to tap out all the benefits,** while many others, what has been called as the Most Backward Classes (MBCs) still remain suppressed.
- **Over insistence over reservations has been criticised for ruining merit and scholarship and for diverting attention** of the people and policy makers from addressing the real issues such as increasing employment opportunities, improving growth potential etc., as everybody is interested in having a larger share of the fixed pie.

Demerits

- It has been hailed for leading to the **democratisation of the Indian political space** and for increasing the confidence of the lower caste people who became much more confident and began voting in masses for leaders belonging to their own milieu.
- This has led to **changing of upper-caste oligarchy by people coming from more humble backgrounds,** who had till now lacked voice in decision making.
- Reservations have effects in educational and administrative fields. More importantly, the OBCs have witnessed social and economic mobility.
- **A recent International Monetary Fund report cited OBCs as enjoying the fastest inter-generational mobility compared to even the higher castes.** They became tenants and landowners, unlike the Dalits. They experienced movement into the formal economy, higher education and job opportunities owing to the implementation of the Mandal Commission in 1990.

BACKWARD CASTE POLITICS IN BIHAR AND ITS IMPLICATIONS FOR INDIAN POLITICS

Recently Nitish Kumar left NDA and resigned as the CM ,later on came together with RJD forming a new government in Bihar. This alliance is significant in the context of consolidation of backward caste votes in Bihar to oppose BJP's strategy of consolidating OBCs' Hindu Identity which has already led BJP to success in UP by defeating major Mandal parties.

Defeating Mandal parties like RJD and JDU won't be easy to defeat for BJP unlike UP as political competition between both parties - as RJD and JD(U) based on backward castes : the Yadavs and the Kurmis, respectively forced each one to evolve differing strategies of mobilisation, preventing the kind of political stagnation that beset Mandal politics in Uttar Pradesh. A JD(U)-RJD combine, therefore, would not have the same glaring weaknesses to the BJP's backward caste strategy that proved decisive in Uttar Pradesh. T**he core vote base of the JD(U)-RJD combine (15% Yadavs, 11% Kurmis-Koeris and 17% Muslims) is much greater than that of the BJP's (15% upper castes). Thus, the BJP can only win the State if there is a major consolidation of the floating voters (26% Extremely Backward Castes, or EBCs, 16% Dalits).**

Explaining the implications of Bihar Politics on Indian Politics **'Sudheendra Kulkarni says India is currently witnessing a resurgence of backward caste politics. This phenomenon helped Modi significantly when he projected himself as an OBC leader. The same advantage accrues to Nitish Kumar too, especially in North Indian states.** Most importantly, Bihar is the first large state where the BJP has lost power. This will infuse new hope among Opposition parties at the national level, who have so far remained disunited and dispirited. The political tremor in Bihar may have given an alternative to the 2024 general election. **According to Subrata Mitra- Nitish Kumar has certainly breathed new life into the structure of Indian politics**. The BJP cannot ignore the electoral threat of this huge potential of resentment, mobilised by a Nitish-Tejashwi-led Opposition. structural implications for Indian politics loom larger over and above the gloom and doom, and euphoria. This may induce the fractious Opposition to move beyond the shibboleth of old slogans of "secularism" and social justice and spell out their collective visions in the areas of citizenship, completing territorial integration of the country, the role of the market in generating employment rather than additions to the state as the fountainhead of all bounties, and take a clear position on structural reform of agriculture. However **Pratap Bhanu Mehta has views which are contrary to this** , he says ***"this is not a moment for euphoria, or a pathway to national regeneration" .***

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2
CHAPTER

INFLUENCE OF CASTE ON ELECTORAL BEHAVIOUR IN INDIAN POLITICS

Caste continues to be a determinant of voting behaviours in India. It has deep roots in the society and constitutes an important basis of social relations at all levels. Despite the adoption of several provisions which prohibit action and discrimination on its basis, caste continues to be a determinant of political behaviours. Politicisation of caste and casteism in polities has been a well known reality of the Indian political system. The role of caste as a determinant of voting behaviour has been analysed by several scholars and they have come out with the conclusion, as **Morris Jones writes, *"Politics is more important to caste and caste is more important to politics than before."***

- **Emergence of Caste-based Leaders:** After the 1970s, the Congress party's decline in India led to the emergence of state-level leaders who formed parties based on middle-caste communities like Jats, Yadavs, Kurmis, and OBCs. Charan Singh played a significant role in leading these groups in North India. Votes are demanded in the name of caste Jat Ki Vot Jat Ko, Brahmin votes vs. Jat votes or Jat votes vs Ahir votes etc., are commonly used "principles" for planning an election strategy.
- **Caste Associations and Voting Patterns:** Caste leaders mobilise followers along caste lines, and in the past, caste associations promoted voting for candidates of the same caste, irrespective of party affiliation. **In Rajasthan, Meenas were asked *"Do not give your daughter or your vote to anyone but a Meena."*** But wherever caste association aligned with a particular party the caste leaders asked caste members to vote for that party. **Though there is a trend among the caste members to vote for a particular party, there is never a complete en bloc caste voting.**
- **Political Strategies to Mobilise Support:** In view of these aspects, caste has been a major factor in determining political strategies to mobilise support of castes.The political parties in India, without any exception, while formulating their policies, programmes and election strategies always keep in mind the caste factor. Caste is a factor in the selection of candidates for contesting an election from a constituency. For example, the Dalits form a substantial support base of the BSP. Caste plays a crucial role in candidate selection by political parties and influences voter behavior in elections. Studies highlight how caste empowers marginalised sections of society.
- **Caste impacts the selection of candidates in Indian politics-** Caste significantly influences political orientations, beliefs, and leadership recruitment. In states like Haryana, Bihar, Uttar Pradesh, Tamil Nadu, and Andhra Pradesh, specific castes such as Jats, Bishnois, Brahmins, Reddys, Karmas, and Valamas hold prominent political roles. Caste groups and caste interests shape socialisation, affecting political thinking, awareness, and participation. **ND Palmer observes: *"Caste considerations are given great weight in the selection of candidates and in the appeals to voters during election campaigns."*** In elections, caste acts as the most important political party.
- **The Centre for Political Studies' several studies has observed that the relationship between caste and electoral politics has undergone tremendous changes since the first general elections held in 1952.** For example, In the 1972 National Election Survey, the candidate's caste was not a significant consideration for the majority of respondents (less than 1 percent). Voting decisions were driven by factors such as the candidate's party affiliation, ability, and perceived protection of interests.
- In UP 5 1 per cent of the SC voters voted for the BSP in the 1998 state assembly elections. 18 percent voted for the BJP. The vast majority of the BSP SC voters belonged to poor strata and of the BJP from the middle class.
- **While analysing the election data, Pushpendra observes, " *Occupationally, the BSP's voters are mainly unskilled workers, agricultural and allied workers, artisans, and small and marginal fanners. Persons engaged in business and white-collar jobs constitute only 2.6 and 1.6 percent of the BSP voters (in LIP)."***

- **In his book Who Wants Democracy? Javeed Alam suggests that the low castes find caste as an empowering tool. Yogendra Yadav observes a shift in changing participation of different social groups in terms of democratic upsurge. He divides this upsurge into two phases: phase of first democratic upsurge; second phase of democratic upsurge.**
- The first democratic upsurge indicated the rise of backward classes during the 1960s-1970s, and the second democratic upsurge shows the increasing participation of Dalits**.** This has been due to the effective role played by the caste organisations**.**
- **In this context, Rajni Kothari underscores that the alleged 'casteism in politics' is thus no more or no less than politicization of caste. In other words, it is not politics that gets impacted by caste, it is caste that gets politicised.**
- **Shifts and Changes:** In the context of the rise of the middle class some scholars pointed to the secularisation of caste. For example in his book ***The Rise of the Middle Class in India*****, Christophe Jaffrelot argues that** the middle class has become a force for social change in India, challenging traditional caste hierarchies and promoting a more secular society. Similarly, **the Aam Aadmi Party (AAP) has been successful in mobilizing voters from across caste lines and its** success has been attributed to its focus on issues such as corruption and development, rather than caste. **Ashutosh Varshney**, in his study of urban-rural dichotomy in Indian politics, highlights how the salience of caste diminishes in urban areas as development and economic issues take precedence.

Caste is the main language of voters belonging to rural India. Despite the adoption of democratic values which conceive of a society free from casteism, caste continues to characterise politics in India. Indeed it has become one of the chief means by which the Indian masses have been attached to the process of democratic politics. The decision to implement Mandal Commission recommendation for reservation of jobs for other Backward Classes (castes) and the reaction it generated in politics testifies to the continued presence of caste as a determinant of politics in India. However, it must be stated that the role of caste as determinant of the voting behaviour has been undergoing a change, at least in the urban areas. Issue based political struggle is gradually taking its shape in the Indian polity. But the situation continues to be paradoxical.

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3
CHAPTER

DEBATE OVER CASTE CENSUS

The Caste Census is a comprehensive enumeration and collection of demographic and socio-economic information on the Indian population, specifically focusing on caste affiliations.It is aimed at understanding the complex societal structure, capturing inequalities, and providing data for policy formulation.The debate over conducting a **caste census in India** has resurfaced prominently in recent years, particularly following the **Bihar caste survey (2023)** and similar efforts in **Telangana (2025)**. With the last official caste census conducted in **1931**, the absence of up-to-date caste data has raised serious questions about the **effectiveness of affirmative action**, **representation**, and the **role of caste in contemporary Indian society**. This debate sits at the heart of India's commitment to **social justice**, **democratic representation**, and **constitutional equality**.

Historical Background of Caste Census in India

The **history of caste census in India** dates back to **1871–72** when the British conducted the first comprehensive population census, including caste enumeration. This practice continued in every decennial census until **1931**, which was the last time comprehensive caste data was officially collected during colonial rule. Post-Independence, the Indian government chose to exclude detailed caste enumeration to promote social cohesion, except for Scheduled Castes (SCs) and Scheduled Tribes (STs) for affirmative action purposes. However, demands for updated caste data led to the **Socio-Economic and Caste Census (SECC) in 2011**, which collected socio-economic and caste information but did not officially release detailed caste data.

The Present Context and Emerging Trends

The **Bihar caste survey (2023)** revealed that **OBCs and EBCs constitute over 63% of the state's population**, while the general category forms just **15.52%**. Similarly, **Telangana's 2025 caste survey** found that **Backward Classes (BCs) make up 56.33%**, including a significant **10.08% BC Muslim** population. These findings highlight the **disproportionate socio-economic backwardness** and **underrepresentation** of marginalised groups in education, employment, and political offices.

For instance, recent data presented in Parliament shows that only **4% of professors** and **6% of associate professors** in **Central Universities** are OBCs, despite them forming a majority of India's population. This **representation gap** persists even after the passage of the **Central Educational Institutions (Reservation in Teachers' Cadre) Act, 2019**.

Why caste census needed; B.R. Ambedkar consistently argued that caste is not just a social division but a systemic barrier to equality, which must be addressed by the state.

- **Data-Driven Social Justice:**Without accurate caste data, policies for reservation, affirmative action, and welfare schemes remain speculative and ineffective. The last comprehensive caste census was in 1931, leaving policy makers blind to present realities.The **Preamble's commitment to equality and justice** cannot be fully realised without addressing caste-based disparities through reliable data and appropriate policy responses.**. Prof. Satish Deshpande** believes caste census is essential for social justice.Points out the paradox where caste is used for targeting policies but not measured reliably. "**We pretend caste does not exist while using it in every policy instrument."**

- **Addressing Inequality:** Recent data shows OBCs, EBCs, SCs, and STs face underrepresentation in higher education and government jobs, despite constitutional guarantees. A caste census can guide targeted interventions.**Dr. Yogendra Yadav "You cannot correct inequality if you do not count it."**
- **Transparency in Resource Allocation**: Welfare budgets and development programs must reflect demographic realities. Without knowing the actual caste composition, resource distribution risks becoming arbitrary or politically motivated.Caste data would help in **targeting welfare schemes**, ensuring that **development reaches the most disadvantaged groups** and preventing elite capture of benefits.
- **Empowerment of Marginalised Groups:** Accurate data strengthens claims of backward classes for rightful representation, enabling democratic empowerment and social mobility.
- **Evidence-Based Policy Formulation:** The lack of credible data, as seen in the flawed SECC 2011, weakens affirmative action. A comprehensive caste census can help fine-tune quotas, scholarships, and employment policies.Justice **(Retd.) M.N. Venkatachaliah (Former CJI)** Endorses caste census for ensuring inclusivity. Highlights that data is essential to make reservations more rational and targeted.
- **Social Cohesion through Recognition:** Ignoring caste realities risks deepening resentment and social unrest. Recognition through data can foster inclusive governance and address long-standing grievances.

Arguments Against the Recent Caste Census Debate

- **Perpetuation of Caste Identities**:Critics argue that conducting a caste census may **entrench caste consciousness** further, contrary to the **constitutional goal of creating a casteless society**.**B.R. Ambedkar** had envisioned a future where **"caste would cease to exist"**, warning that continuous emphasis on caste could hinder national unity.
- **Political Instrumentalization**: A caste census could lead to **intensification of identity politics**, where caste data is used by political actors to **mobilize vote banks** rather than promote genuine development.**Justice (Retd.) A.P. Shah** Concerned about politicization of caste data.
- **Social Fragmentation;**Detailed caste enumeration may fuel **new social divisions** or **reinforce existing hierarchies**, undermining efforts towards **social integration and national solidarity**.
- **Rajni Kothari** in his seminal work on **"Politics in India"** highlighted how caste, when politicized, transforms into a **competitive and conflictual identity**, which may destabilize democratic processes.
- **Administrative Complexity and Data Reliability:**Previous experiences, such as the **Socio-Economic and Caste Census (SECC) 2011**, were marred by **inconsistent and unreliable data**, raising concerns over the **administrative feasibility and utility** of such a given exercise.
- **Risk to Meritocracy and Efficiency:**There is a concern that further caste-based policies based on new data might **undermine meritocracy**, affecting **institutional efficiency** and **competitive standards** in public employment and education.
- **Constitutional and Philosophical Concerns:**India's **Preamble** aspires to **"equality of status and opportunity"**, and continuous caste-based enumeration could conflict with the broader vision of moving beyond narrow identities towards a **unified Indian citizenship**.

What will this data be used for?

Apart from its use in academic research and policy making, the key import of caste data from a public and political viewpoint is what changes it will drive in affirmative action or reservation policies. The 27% OBC quota for education and government jobs was set on the basis of a projection from the 1931 census; a new caste count could well upend those estimates.

In Karnataka, for instance, where the caste survey found that the OBC population is significantly higher than estimated, there have been demands to increase their quota in the State from 32% to 51%. The clamour for more reservation, backed by caste population data, is also likely to lead to a challenge of the Supreme Court-mandated 50% cap on reservation

Global Precedents

Critics argue that a caste census deepens social divides and undermines national unity. However, the reality is that caste endures not because it is counted, but because it shapes how opportunity, and wealth are distributed.Other democracies don't shy away from identity-based data. The **U.S**. collects race and ethnicity data every 10 years and

uses it for civil rights enforcement. **South Africa and Brazil** do the same by tracking race and language categories. If these nations can use such data to address inequity, so must India, home to the most enduring and hierarchical caste system in the world.In the **United Kingdom,** post-legislative scrutiny is standard practice where laws are periodically reviewed to assess effectiveness—an approach that India could adopt alongside caste data to ensure policies achieve real outcomes.

A caste census goes beyond policy formulation; it strengthens **democratic accountability**. Disaggregated data allows citizens, media, and civil society to assess if public resources are shared equitably. By exposing **intra-caste disparities** and elite capture of welfare schemes, it empowers citizens to demand greater **transparency and inclusiveness** in governance.

Ultimately, the caste census is not about counting caste. It is about recognising injustice and correcting it. Thus, a caste census rooted in social management would be linked to a wider agenda of social emancipation. This includes constitutional literacy, land rights, housing, labour protections, and justice for Dalit, Bahujan, and Adivasi women who face intersectional exploitation. A caste census done right could offer India a data-driven democratic transformation.

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4
CHAPTER

ETHNICITY ISSUES IN NORTH-EAST INDIA: WITH SPECIAL REFERENCE TO MANIPUR VIOLENCE (2023)

In the state of Manipur, conflicts are heavily influenced by the ethnic divide among the Meiteis, Nagas, and Kukis, with conflicting ideas of 'home land' often feeding into the ethnic divide. The demand for introducing the National Register for Citizens (NRC) in Manipur, allegedly due to the rise in the population of 'illegal immigrants', has also fueled the ethnic divide. The conflict is further compounded by issues like migration from Myanmar, modern state boundaries, and the state government's responses governed by majoritarian sentiments.

- **Contributing Factors to the Manipur Violence: Competitive Politics and Communal Narratives -**The unrest in Manipur is largely driven by competitive electoral politics and divisive communal narratives, accentuating the divide between the Meiteis in the valley and the STs in the hill areas.
  - Misrepresented factors contributing to underdevelopment further fuel the violence. This leads to demands for decentralisation, separate administration, and restrictions on tribal people residing in the valley.
  - **A. Bimol Akoijam notes** that The narrative of deprivation and differential development between the valley and the hill areas is propagated by politicians and social elites, especially among the STs. They blame the Meiteis for both perceived and actual disparities in development.
  - Such narratives, however, often sideline real factors contributing to underdevelopment, like topography, demographic factors, law and order issues, flaws in a 'one size fits all' model of planning, and the effects of a neo-patrimonial socio-economic structure.
  - This orchestrated violence serves the interests of those advocating for sectarian politics, leading to ongoing violence and demands for asymmetrical federation, decentralisation, separate administration, and restrictions on tribal people residing in the valley.
- **National Context: Identity Politics and ST Status Disputes-** The Manipur violence fits into the broader national trend of escalating disputes over ST status, correlating with the rise in economic liberalisation.
  - The reservation system is criticised for its outdated nature and backlogged status. The criteria for ST status, based on an antiquated conception of a tribe, often fail to reflect the realities of communities that have significantly evolved culturally and socio-economically.
  - **Sanjib Baruah** notes that the increase in such conflicts aligns with the rise in economic liberalisation and neoliberal reform, which has intensified the stakes of the reservation system. The outdated and backlogged nature of India's reservation system suggests that it contributes to these conflicts.
  - The case of the Adivasi community in Assam is mentioned as an example, suggesting that current criteria may not accurately reflect the realities of communities that have undergone significant cultural and socioeconomic changes over time.
- **Root Causes and Conflicts-** At the core of the conflicts are issues related to land rights, employment opportunities, regional underdevelopment, and concerns about migration from Myanmar. These, combined with the escalating tensions between Meiteis, Kukis, and Nagas, create a complex situation ripe for conflict.

Governmental Approach to the Issue

- The post-Independence conflict resolution in India's North-east region, as per the ARC report, comprises four primary methods: (i) intervention by security forces or 'police action'; (ii) enhancement of local autonomy through mechanisms like Statehood conferment, the Sixth Schedule, Article 371 C of the Constitution for Manipur, and 'tribe-specific accords' in Assam, among others; (iii) negotiations with insurgent outfits; and (iv) implementation of development activities including special economic packages.

- These strategies reflect India's constitutional democracy approach, characterised by a policy of accommodation and assimilation. For instance, the Indian Constitution provides institutional accommodation for tribal communities in Northeast India through measures like protective discrimination policies. Certain states invoke the Inner Line Permit (as seen in Arunachal Pradesh, Nagaland, and Mizoram) and special provisions to protect the interests of these communities.
- The Sixth Schedule of the Indian Constitution grants special status to traditional institutions and facilitates the establishment of autonomous district councils. This institutional acknowledgement reflects the Indian Government's recognition of the unique needs of Northeast communities, often isolated from the larger polity.
- In Assam, the Assam Accord was inked on 15 August 1985 between the Indian Government and AASU leaders to quell violent agitation. However, the United Liberation Front of Asom (ULFA) rebuffed the accord, insisting on a separate nation and broader demands.
- Mizoram serves as a positive example where an agreement signed in 1986 led to the creation of a new state, putting an end to decades of insurgency. Mizoram's successful transition is often lauded in Northeast India.
- Lastly, in Tripura, after an intense struggle, a settlement was negotiated with the TNV militants on August 12, 1988. This agreement promised swift action to restore alienated lands, establish an Autonomous district council, and enforce stringent measures to prevent border infiltration.
- **Manoj Pant and Arun Sahni, in the case of Manipur, suggest that First, the solution for peaceful co-existence has to be found by the people of Manipur themselves. There is a need for a Civil Society Peace Committee that looks into the Kuki-Meitei divide. Second, there is a need for the media to exercise restraint and maturity in reporting and discussing these events on podcasts, interviews, etc. T**
- Their leading, suggestive questions, due to the political leanings or dislike for the current political dispensation, add fuel to the fire and create undue emotional hype. Third, there is a need for the government to contextualise, at times, the divisive impact of privileges accorded to different sections of the society by central and state government policies.

The journey of these Northeast states exemplifies the multi-faceted approach to conflict resolution in the region, aiming to balance security, autonomy, negotiation, and development.

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Party System: National and regional political parties, ideological and social bases of parties; Patterns of coalition politics; Pressure groups, trends in electoral behavior; changing socio-economic profile of Legislators.

CHAPTER 1

ELECTORAL BEHAVIOUR AND INFLUENCES OF CIVIL SOCIETY, SOCIAL IDENTITY AND WELFARISM

The Indian electoral landscape is complex, shaped by a multitude of factors. Key among these is the roles of pressure groups like civil society organisations, the effect of social identity on voting behaviour, and the complex interplay of welfarism, caste representation, and the rising influence of Hindutva. This article delves into these critical determinants, drawing on data, case studies, and expert insights.

- **The Role of Pressure Groups-** As informal platforms representing the needs of various interest groups, they often serve as the voice of the marginalised. They influence public opinion and policy through advocacy and engagement with political processes. **The Association for Democratic Reforms (ADR)**, for example, promotes transparency in the electoral process by disclosing candidates' assets, criminal records, and educational qualifications, thereby impacting voter decision-making.
  - In the context of recent Karnataka elections, **Peter Ronald deSouza** observed that CSOs like Eddelu Karnataka and Bahutva Karnataka exhibited a strong resilience in the face of attempts to curtail their activities. He emphasised, ***"CSOs are fundamental to the health of a democracy such as that of India."*** According to him, the political resilience and vibrancy displayed by CSOs underscore their intrinsic role in shaping electoral behaviors. They form an integral part of the complex socio-political tapestry that influences electoral outcomes, serving as both catalysts and moderators of social identities, ideologies, and welfare concerns.
- **Social Identity and Electoral Behaviour-** Social identities, especially those based on religion, caste, and regional affiliations, significantly impact electoral behaviour in India. **Scholar Paul R. Brass's concept of the 'institutionalised riot system' asserts that religious riots can be instrumental in consolidating and mobilising vote banks.**
  - However, Political scientist, **Pratap Bhanu Mehta,** has argued political identities are not over-determined by social identity. He observed, in the context of the **2023 Karnataka elections,** that *"the votes of even a group like the Lingayats were significantly distributed across the BJP and Congress. What this suggests is that politics is not mostly a game of social engineering, but a game of generating new political identities."*
- Similarly, the caste system, despite being officially abolished, continues to influence the electoral landscape. Often, political parties bank on caste-based loyalties to secure votes. **Kanchan Chandra's work on 'Why Ethnic Parties Succeed: Patronage and Ethnic Headcounts in India' is an illustrative study of how caste-based calculations influence political dynamics.**
- **Welfarism, Caste Representation, and Hindutva-** Indian politics has seen a strategic shift towards welfarism, whereby political parties employ welfare schemes as a tool to consolidate their electoral base. In the 2019 General Elections, the Pradhan Mantri Kisan Samman Nidhi (PM-KISAN) and Ayushman Bharat schemes were significant influencers in the BJP's electoral success.
  - This was emblematic of the broader transformations in the political science of India, where parties are evolving their strategies to navigate a diverse and dynamic electorate. Caste representation, on the other hand, remains a contentious issue. Reservation policies for Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs) have been at the centre of political and societal debates. Parties often employ caste-centric policies and nominations to appeal to caste-sensitive electorates.

- The political discourse around Hindutva has been pivotal in recent years. Scholars like **Christophe Jaffrelot** argue that the rise of Hindutva, propagated by parties like the BJP, fundamentally alters the electoral dynamics by promoting a majoritarian Hindu identity. **In the context of the recent Karnataka elections, Varghese K. George noted how the Congress party successfully countered the BJP's political strategy, which was an intricate blend of welfarism, caste representation, and Hindutva in Karnataka.**

In conclusion, Indian electoral behaviour is a confluence of various factors. Civil society organisations play an essential role in shaping voters' attitudes, while social identities like caste and religion remain powerful influences. The dynamics of welfare, caste representation, and Hindutva further add layers of complexity to this intricate landscape. As the world's largest democracy continues to evolve, these influences will undoubtedly remain at the forefront of its political discourse.

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CHAPTER

GENERAL ELECTIONS 2024- WHAT INFLUENCED ELECTORAL BEHAVIOUR

The 2024 Indian general election saw a major shift in voter behavior, mainly due to economic issues like inflation and unemployment, as well as the resurgence of caste politics. These factors combined to significantly influence the election results, showing how voters were reacting to the challenges they faced in their daily lives.

- **Economic issues**
  - According to the Lokniti-CSDS post-election survey, it was the people's assessment of their household's financial condition rather than their perception of the national economy that may have determined their voting choices.
  - Distress over economic issues such as inflation and rising unemployment brought economic issues to the fore. For example: Official estimates show that the UP economy performed poorly from 2017 to 21.
- **Formation of INDIA bloc & issues raised by opposition**
  - The leaders of the INDIA bloc consistently harnessed the discontent on the ground, reiterating people's issues. The need for a caste census which the BJP was resisting; the fear among Dalit communities that the BJP would change the Constitution depriving them of reservations; the unpopular Agniveer scheme; the repeated leaking of question papers for competitive exams, among others.
  - Akhilesh Yadav has revived the Samajwadi Party by forming alliances with smaller OBC and Dalit parties and shifting the focus to social justice versus Hindutva. To change the SP's image as a Muslim-Yadav party, he gave fewer tickets to Yadavs and prioritized non-Yadav backward communities.

Caste factor

- The **2014 and 2019 Lok Sabha elections** had created the perception that the days of caste assertion or "voting your caste" were a thing of the past. But there are **no signs that it is going away anytime soon**, or even becoming less important, either socially or politically.
- On August 1, **2023**, the **Patna High Court**, giving its **go-ahead to a caste survey in Bihar**, also noted that "despite attempts to efface it from the social fabric, caste remains a reality and refuses to be swept aside, wished away, or brushed aside nor does it wither away and disperse into thin air".
- Nothing expresses this better than the **election results of 2024**, where parties across lines reaped rich dividends from formidable caste alliances, not only in the traditional caste cauldrons of Uttar Pradesh and Bihar but also in Maharashtra and Karnataka, where social hierarchies are supposedly less rigid.
  - **Ajay Gudavarthy** *: "Caste remained a significant factor all through the 10-year period of Modi's populist mobilisation. What the BJP-RSS combine managed to do was internally subvert the democratic aspirations of the marginalised castes. They offered them representation without any accompanying social demands. This came under stress in this election."*
- **The verdict from Ayodhya**
  - As per **Anand Mishra**, "Nothing bears out the shift from religion to caste better than the victory of Awadhesh Prasad, a Dalit leader from the Samajwadi Party (SP), from the general constituency of Faizabad, which is home to Ayodhya and the Ram temple. This was a particularly big setback for the BJP, which was banking heavily on the euphoria generated by the temple not only in Uttar Pradesh but countrywide."
  - As per **Sanjay Kumar**, "**The verdict of 2024 has indicated that there is a limit to identity politics, whether it is about caste or religion**."

❖ **Dalit dissatisfaction**

- Dalits moved away from the BJP because they feared the party might change the Constitution and end reservations if it gained too much power.
- In 2019, data from the **Centre for the Study of Developing Societies (CSDS)** showed that 33 percent of Dalits and 42 per cent of OBCs voted for the BJP.
- Understanding the OBC vote is more complex.
- Dominant Dalits and OBCs, called "**mezzanine elites**" by **Gudavarthy**, may still support the BJP for representation.
- However, lower sections of these groups shifted to the opposition, particularly the Congress, due to promises of better resource distribution. These lower sections focused on overall benefits, not just representation.

Does The Caste Dynamics Challenge Bjp's Hindutva Politics Amidst Economic Strains And Rising Aspirations ?

❖ **Gudavarthy** said: "We saw a conflict of interest between the dominant castes. For instance, in Uttar Pradesh, tension brewed between Rajputs and Brahmins; in Gujarat, Rajputs were unhappy with the BJP just as the Jats were in Haryana. **Hindutva politics is struggling to hold divergent castes together under its resurgent Hindu mobilisation**."

❖ The rising aspirations of the subaltern classes meant that their demand was for more than just food grains and freedom from fear, which is ultimately the only thing the BJP appeared to promise, and they switched to an alternative that promised a bigger share in the resource pie.

❖ However as per **Pratap Bhanu Mehta**, "**The rejection of the BJP is not a rejection of Hindutva: The building of the temple was popular and communalism is growing. But the BJP made the mistake of thinking this could transform into political capital indefinitely**."

GENERAL ELECTION 2024: SOCIO-ECONOMIC PROFILE OF THE 18th LOK SABHA

Recently general elections were held in India from 19 April to 1 June 2024 in seven phases, to elect all 543 members of the Lok Sabha.

❖ **On elected MPs**

- 52% of newly-elected MPs are first-timers in Lok Sabha.
- 262 MPs elected to the 18th Lok Sabha have previously served as members of Lok Sabha. Of the others, 16 have been members of Rajya Sabha. Two MPs have served seven terms in Lok Sabha.
- 216 sitting MPs were re-elected. Of these, eight changed their constituency. One MP was re-elected from two constituencies, including the earlier one.

❖ **On age**

- Parliament is getting older.
- The average age of MPs elected to the 18th Lok Sabha is 56 years; this was 59 years in the 17th Lok Sabha.
- 11% of MPs are 40 years or younger, and 38% are between 41 and 55 years of age. 52% of MPs are older than 55 years. The oldest MP is 82 years old. Three MPs elected to the 18th Lok Sabha are 25 years old.

❖ **On women**

- 74 MPs (14%) elected to the 18th Lok Sabha are women. This is marginally lower than in 2019, when 78 women were elected.
- 16% of these women MPs are below the age of 40.

❖ **On education**

- 78% of MPs of the 18th Lok Sabha have completed at least undergraduate education. This proportion is the same for newly-elected women MPs.

❖ **On profession**

- Agriculture and social work are the most common professions among MPs elected to the 18th Lok Sabha.
- 91% of MPs from Chhattisgarh, 72% in Madhya Pradesh, and 65% from Gujarat have indicated agriculture as one of their professions.
- 7% of MPs elected to the 18th Lok Sabha are lawyers, and 4% are medical practitioners.

Social Movement: Civil liberties and human rights movements; women's movements; environmentalist movements

CHAPTER 1

DALIT MOVEMENTS IN POST INDEPENDENCE INDIA

Dalits generally refer to the Scheduled Castes alone, the castes that in the Hindu Varna system were outside the Varna system and were known as Avarnas or Ati-shudras. They were considered as impure and untouchables and were placed in the caste hierarchy which perpetuated inequality. The Dalits constitute around 15 percent of the Indian population and belong to the lower rungs of the Indian society, economically and socially. **Their population is spread throughout the parliamentary and assembly constituencies but in the country as a whole it constitutes around one third of the electorate (Chandra, 2004).**

DALIT MOVEMENT IN PRE-INDEPENDENCE INDIA-

- **Bhakti Movement-** It promised social equality. The teachings of Bhakti movement inspired and motivated scheduled castes for the beginning of Dalit movement. These provided the means to protest against orthodox Hinduism for future generations of Dalits.
- **Neo-Vedantic Movements-** These movements were initiated by Hindu religious and social reformers. These movements attempted to remove untouchability by taking the Dalits into the fold of the caste system.
  - According to the pioneers of these movements, untouchability was not an essential part of Hinduism and, for that matter, of the caste system.
  - The neo-Vedantic movements and non-Brahmin movements played an important catalytic role in developing anti-caste or anti Hinduism Dalit movements in some parts of the country.
- **Sanskritisation Movement- M.N. Srinivas** (1955) defined Sanskritization as a process by which "a low or middle Hindu caste, or tribal or other group, changes its customs, ritual ideology, and way of life in the direction of a high and frequently twice-born caste.
- Kumar (1991) writes that Dalit leaders followed the process of 'Sanskritization' to elevate themselves to the higher position in caste hierarchy.
- They adopted Brahman manners, including vegetarianism, putting sandalwood paste on their forehead, wearing sacred thread, etc. as some of them thought that this would enable them to elevate their position in the society.
- Limitation of the high caste manners by Dalits was an assertion of their right to equality.
- **Gandhi's Contribution to Dalit Movement-** He always thought of untouchability as a cruel and inhuman institution. He stressed the problem of untouchability and its removal from its roots. He stressed the problem of untouchability and its removal from its roots. To boost up the work for the upliftment of Harijans, Gandhiji laid the foundation of the Harijan Sevak Sangh in 1932 when he was in jail.
- **Ambedkar's Contribution to Dalit Movement-**
  - Ambedkar started a Marathi fortnightly, the "Bahishkrit Bharat", a weekly, the "Janta", the "Samaj Samta Sangh" for advocating social equality among the untouchables and the caste Hindus.
  - He supported inter-caste dinners and inter-caste marriage. He also published another paper, the "Samata" in March 1929.

- In December 1927 he led a Satyagrah to establish the civic rights of the untouchables and formed the Scheduled Castes Federation in 1942.
- He secured funds from the central Government for their education and reservation in posts in the central and provincial services for them.

DALIT MOVEMENTS IN POST INDEPENDENCE INDIA

B.R. Ambedkar and Buddhist Dalit Movement

- Babasaheb Ambedkar favoured the Buddhist religion and advocated for conversion to Buddhism considering that conversion is the powerful weapon for Dalits to emancipate themselves.
- Ambedkar was convinced that Buddhism possessed a moral doctrine with and has following major objectives to perform.
- In the political domain, it would be helpful for the Dalits in creating a non-communal political ideology and identity against other existing perspectives of violent politics.
- He realised that the "caste system among the Hindus has the foundation of religion". And so long as the Dalits remain Hindus, Dalits will have to struggle hard for social intercourse for food and water, and for intercaste marriages if they continue as Hindus. Ambedkar converted himself to Buddhism in 1956 in Nagpur.
- Ambedkar chalked out a consolidated economic development plan without being influenced by the socialist approach of the radical Marxist thinking that he once found suitable to describe the depressed classes in India.
- In State and Minorities Ambedkar laid down the strategy of India's economic development without closing every avenue of private enterprise and also providing for the equal distribution of wealth.
- **He advocated an economic framework aimed at providing protection to the vulnerable sections of society against economic exploitation (Jadhav).**

Dalit Panthers

- It was a neo-social movement which accepted Ambedkar 's philosophy to find a theoretical framework for the movement.
- It was a social organisation that sought to fight caste discrimination. It was founded by Namdeo Dhasal and J. V. Pawar on 29 May 1972 in the Indian state of Maharashtra.
- **The Dalit Panther movement was a radical departure from earlier Dalit movements owing to its initial emphasis on militancy and revolutionary attitudes.**
- Most members were young men, some of whom were Neo-Buddhists. They advocated for and practised radical politics, fusing the ideologies of Ambedkar, Jyotirao Phule and Karl Marx.
- **Kumar (2016)** narrates that the Dalit Panther movement was a radical departure from earlier Dalit movements. Its initial thrust on militancy through the use of rustic arms and threats, gave the movement a revolutionary colour.
- They imparted the proletarian – radical class identity to Dalits and linked their struggles to the struggles of all oppressed people over the globe.
- Marxism provided a scientific framework to bring about a revolutionary change. Although have-nots from both Dalits and non-Dalits craved for a fundamental change, the former adhered to what appeared to be Ambedkarian methods of socio-political change and the latter to what came to be the Marxian method.
- Dalit Panthers reflected the positive aspects of the BPP's contributions in terms of self-defence, mass organising techniques, propaganda techniques and radical orientation but lacked the suitable ideology to channel this anger for achieving their goal.
- They also reflected 'TV mentality' (to think of a revolutionary struggle like a quick-paced TV programme), dogmatism, neglect of economic foundation needed for the organisation, lumpen tendencies, rhetoric outstripping capabilities, lack of clarity about the form of struggle and eventually, corruptibility of the leadership.

Contribution of Kanshi Ram to Dalit Movement-

- He formed a party in 1984, Bahujan Samaj Party (BSP) to represent Bahujans inspired by the philosophy of Gautam Buddha, B.R. Ambedkar, Mahatma Jyotiba Phule, Narayana Guru, Periyar E. V. Ramasamy, and Chhatrapati Shahuji Maharaj.
- The primary focus of BSP is for the upliftment of downtrodden people with the principal goal of "Social Transformation and Economic Emancipation.
- The political strategy of the party is to narrate the stories of Dalit heroes, build memorials and organise celebrations around their stories repeatedly to build a collective memory in the psyche of the people.

Mayawati's Contribution to Dalit Movement-

- She emphasised on a platform of social change to improve the lives of the weakest strata of Indian society - the Bahujans or Scheduled Castes and Scheduled Tribes, Other Backward Classes, and religious minorities.
- Under the leadership of Mayawati, the government has taken the following decisions (from March 2007 to May 2008) in the interest of weaker sections; -
  - Special drive for filling the backlog of reservations.
  - Provision of reservation to SC/ST in the private sector
  - Computerisation for transparency in the distribution of SC/ST scholarships
  - Mahamaya housing scheme

Dalit empowerment is Mayawati's lasting contribution to the Indian polity. She has "given a sense of self-confidence to the community that even Ambedkar or Kanshi Ram could never give."

- **In the 2000s, the Dalit movement in the country entered a new phase and acquired a more complex character. According to Sudha Pai the movement has been impacted by forces of globalisation and cultural modernization and is one of the reasons which has created a fragmentation over ideology and action dividing the middle class and the poorer, marginalised section of the Dalits.**
- Sudha Pai says the Second reason that has impacted the Dalit movement is a new-generation leadership of BJP which has promised economic development and cultural inclusion within the saffron fold, due to which the lower jatis (sub-castes) have been attracted towards this and created an ideological divide between the Ambedkarite or pro-BSP and Hindutva Wadi or pro-BJP Dalits.
- Due to these changes today the older ideology of political empowerment, identity and self-respect in the 1990s no longer appeals to Dalit section as now economic betterment is the priority. **In addition to this due to several economic changes in the 1990s there was an emergence of a small, but influential, young, educated and politically conscious Dalit middle class; it represents a different strand in the Dalit movement as it has evolved over the last two decades.**
- The need for economic empowerment, unlike previous aims of the Dalit movements and parties such as the BSP which mobilised on issues of socio-political empowerment, such as identity, dignity and self-respect was emphasised by this new class. The 'Dalit Agenda' , which advocated new policies such as Supplier Diversity to create Dalit entrepreneurs, formulated at the Bhopal Conference in January 2002, is one example of the new aspirations of Dalit movement.
- New strands in Dalit movement claimed that the traditional policies of affirmative action and state welfarism without a share in the capital in the economy are unable to improve their socio-economic status and these measures benefited only a tiny elite section of the community improving their educational attainments and economic status and due to this reason the Dalit Agenda argued for the need for the 'democratisation' of control over 'capital' and a strong Dalit business/industrial class, which could participate equally in the national economy.
- To achieve this objective certain steps have been taken in this direction. For example the setting up of a Dalit Chamber of Commerce, has been the work of this new class, an attempt to reinterpret Dalit history and politics by a new generation of Dalit scholars, examples being Suraj Yengde, Chinnaiah Jangam and Sambaiah Gundimeda.

- **Explaining the shift in the Dalit movement *Ajay Gudavarthy explains* this dynamic between rural Dalit and urban Dalit Politics.** According to him rural Dalit politics seems to have moved from challenging the upper castes to finding acceptance and becoming a part of the majoritarian polity that is under construction as the acceptance looks far more achievable than the abstract idea of annihilating caste.
- In the case of urban Dalits who moved to cities in search of education and who have benefited from affirmative policies of the last four decades and this led to the emergence of "new" middle classes from among these Dalit families who wishes to be as much a part of the growth story as the traditional upper castes.
- Here, it is much less of the Hindu identity as it is about a perceived universalism of the benefits of growth and governance that undermines the language of caste that comes as a relief to the urban Dalit. **It is also for this very reason that the Dalit movement today has developed as much contempt for the Left parties and left-based social mobilisation as the traditional upper caste social elites in India and the traditional right-wing political parties such as the BJP.**
- Earlier, in the 1970s and even the 1980s, the tension between Dalit and Left politics was articulated around how to draw equivalence between caste and classes. Now, however, Dalit politics has a conflict with the very vision of the Left and the anti-capitalist agenda.
- They perceive this as yet another strategy of the upper castes, in the garb of Leftism, to dislodge the upper mobility of the Dalit entrepreneurs. **Ajay Gudavarthy** while Ambedkar himself all along unequivocally argued against both Brahmanism and capitalism — twin processes that have perpetuated caste in India. The post-Ambedkarite Dalit politics, among other things, is gradually but unmistakably taking a rightward shift.

On the one hand these shifts in the Dalit movements have given new aims to mobilise the Dalits which are different to the older ones on the other hand these shifts have posed challenges to the Dalit movement in the context of leadership ,strategies and issues around which Dalits should be mobilised. Badri Narayan in this *context says* Leaders such as Bahujan Samaj Party supremo Mayawati and Bhim Army chief Chandrashekhar Azad have not been able to engage effectively with these new shifts. Dalit leaders in north India have not been able to represent their concerns. Their dilemma is how to address their constituencies using class terminology such as 'labourer' and 'poor' even as a majority of the migrant poor are Dalits and OBCs. This dilemma has made Dalit leaders non-assertive. Considering COVID-19 , it is possible that these shifts in political debates may continue in the post-pandemic phase at least for a few years as vulnerabilities of the marginalised will increase. **According to Badri Narayan the movement is facing a crisis of agendas and social programmes. The Dalit movement is constantly facing new challenges but its leaders are not able to change their strategies and grammar of politics to respond to them.** Now the pandemic has posed a new challenge for the Dalit movement. Caste-based identities formed the ideological resource base, but now concerns have gone beyond caste and religion, thus posing a different challenge. In order to keep up with the changing times The Dalit movement has to evolve new social strategies for its expansion.

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MISCELLANEOUS

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CHAPTER

THE DIGITAL DATA PROTECTION BILL

The Digital Personal Data Protection (DPDP) Bill, 2023 was recently passed by Parliament but the confidential final draft faces criticism for provisions that could undermine transparency while claiming to protect privacy**. The Bill will become law once it receives the President's assent.**

KEY FEATURES OF THE BILL

- **Applicability:** The Bill applies to processing of digital personal data collected online or collected offline and digitized. It also applies to processing outside India if it is for offering goods or services in India. Personal data is any data that can identify an individual. Processing includes collection, storage, use and sharing of such data.
- **Consent:** Personal data can only be processed for lawful purposes with individual consent. Notice must be given before seeking consent, detailing the data collected and processing purpose. Consent can be withdrawn anytime. Consent is not needed for legitimate uses like: (i) purposes voluntarily provided by individual, (ii) government benefits or services, (iii) medical emergency, (iv) employment. For individuals under 18, consent is given by parents or legal guardian.
- **Rights and duties of data principal:** Individuals whose data is processed (data principals) have rights to: (i) obtain processing information, (ii) seek correction and deletion of personal data, (iii) nominate someone to exercise rights in case of death/incapacity, (iv) grievance redressal. Data principals have duties not to: (i) make false/frivolous complaints, (ii) provide false information or impersonate someone. Violating duties is punishable with up to Rs 10,000 penalty.
- **Obligations of data fiduciaries:** The data protection bill requires data fiduciaries to implement reasonable data accuracy and security safeguards, inform authorities and affected individuals about breaches, and erase data no longer needed. However, government entities are exempt from storage limitation and data erasure rules. By setting standards for data responsibility while allowing data use, the bill aims to balance privacy protection and legitimate usage.
- **Transfer of personal data outside India:** The Bill allows transfer of personal data outside India, except to countries restricted by the central government through notification.
- **Exemptions:** Data principal rights and fiduciary obligations (except security) won't apply in cases like: (i) preventing/investigating offenses, (ii) enforcing legal rights. Government can exempt certain activities like security, research.
- **Data Protection Board:** Will monitor compliance, impose penalties, direct measures for breaches, hear grievances. Members appointed for 2 years.
- **Penalties:** Up to Rs 200 crore for non-fulfillment of child obligations; Rs 250 crore for failure to secure data. Imposed by Board after inquiry.

CRITICISM OF THE BILL

- **Key concerns include:**
  - The bill gives the central government broad discretionary powers without independent oversight, creating risks of mass surveillance and privacy violations.
  - It does not create a truly independent data protection regulator.
  - It creates uncertainties around cross-border data flows.
  - It undermines people's privacy rights by enabling the government to exempt itself without public or judicial scrutiny.

- The bill facilitates data processing by government agencies and private companies, rather than protecting privacy. This risks creating a "surveillance state" as per critics.
- It further widens exemptions for government bodies from privacy safeguards. This could enable greater state surveillance without accountability.
- It does not adequately empower the data protection authority or provide effective oversight mechanisms.
- The government appoints the oversight body, raising doubts over its autonomy to safeguard citizens' interests. According to experts, a weak board leaves citizens vulnerable to violations in India's context of low literacy and limited legal recourse. The bill also ignores the socio-economic realities shaping privacy rights implementation. In contrast, the EU's GDPR has strong oversight and public awareness to enforce norms.
- **Serving Corporate Interests:** According to experts, claims that the bill will boost the digital economy indicate it may primarily serve corporate data mining interests rather than public concerns. The Supreme Court's 2017 privacy principles should guide any data protection law. Experts argue the DPDP Bill facilitates greater data collection by the government instead of focusing on protection. **It ignores the Supreme Court's 2017 Puttaswamy judgement upholding privacy as a fundamental right and directing a data protection law.**
- It prescribes duties for citizens to provide personal data while imposing fines for incorrect information.
- **Undermining Transparency:** Experts argue the proposed amendments to the RTI Act threaten the foundations of transparency by restricting access to personal data needed to expose misgovernance and corruption. Past experience shows access to granular data is critical for accountability, like details of officials' assets.
- **Excessive exemptions to government bodies compound online censorship concerns.** Empowering arbitrary exemptions potentially enables the targeting of critics while shielding cronies. Control over the Data Protection Board raises worries about it becoming a tool to penalise dissent.
- Some apprehensions that protecting officials' personal data will dilute RTI and reduce transparency—provisions allowing platforms to be blocked grant more censorship powers to the government as per experts.

WAY FORWARD

- Experts and critics suggest limiting exemptions for government bodies and ensuring the data protection board's autonomy through independent appointments.
- Concerns around diluted transparency and accountability need redressal. Checks are required on provisions expanding state control over online content.
- While seeking to regulate personal data, the DPDP Bill facilitates state surveillance as per experts, instead of focusing on protection. Wider public debate and strengthening of constitutional safeguards are needed to achieve the right balance.
- **About 70% of countries worldwide have some form of legislation for data protection, according to the United Nations trade agency UNCTAD.**
- The EU's General Data Protection Regulation, which came into effect in 2018, is claimed to be the ***"toughest privacy and security law in the world,"*** and seen as the global benchmark.
- Several nations including China and Vietnam have recently tightened laws governing the transfer of personal data overseas, while Australia in 2018 passed a bill that.

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CHAPTER 2

ANALYSING THE NEW IT RULES AMENDMENT: EXAMINING THE IMPACT ON LIBERTY FROM A POLITICAL SCIENCE PERSPECTIVE

In the ever-evolving digital landscape of modern society , the spread of fake news and misinformation has emerged as a critical challenge. To address this issue, recently the Indian Union government introduced amendments to the Information Technology (IT) Rules in April 2023. However, its potential impact on individual liberties and the broader democratic framework has subjected this to criticism. What are these rules and how it is impacting freedom has been explained in this article.

- **The Balance between Information Accuracy and Liberty-** Through the amendment limitless powers have been given to the **"fact check unit"** which raises questions about the delicate balance between safeguarding accuracy and preserving individual liberties. **According to Dr. Arghya Sengupta,** *"While it is important to counter the menace of fake news, any regulatory framework should be proportionate and should not unduly infringe on the fundamental right to freedom of speech."*
- **Centralised Power and Government Control-** The Union government gets to decide for itself what information is bogus and gets to exercise wide-ranging powers of censorship by compelling intermediaries to take down posts deemed fake or false. This concentration of power challenges the democratic principle of checks and balances and raises concerns about the government acting as an arbiter of truth. **The Madras High Court in T M Krishna v. Union of India and the Bombay High Court in Agij Promotion of Nineteen One Media Pvt. Ltd. & Ors. v. Union of India put a hold on the rules which provided the government a wider say on content on OTT or digital media platforms.**
- **Violation of fundamental rights-** Article 19(1)(a) grants to every citizen a right to freedom of speech and expression. That right can only be limited through reasonable restrictions made by law on one or the other of the grounds stipulated in Article 19(2), namely, in "the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence". The IT Rules do not caveat the restraints they place in any manner.
- **Executive Diktats and Democratic Safeguards-**The amendment has been introduced through executive diktats rather than parliamentary legislation without any debate and discussion. Fundamental rights, including freedom of speech and expression, are typically protected through legislative measures and subject to constitutional scrutiny. However, the IT Rules amendments bypass these procedures, undermining established democratic principles.
- **Ambiguity and Vagueness-** The lack of clear definitions and guidelines within the IT Rules amendment is a significant cause for concern. The term "fake news" remains undefined, leaving room for subjective interpretation and potential abuse of power. Additionally, the amendment's reference to news related to "any business" involving the state introduces ambiguity, allowing for a broad scope of government intervention in online content. This vagueness further undermines democratic values and citizens' right to access diverse information.
  - In its landmark judgement in **Shreya Singhal vs Union of India (2015),** the Supreme Court, in striking down Section 66A of the IT Act, held that a law that limits speech can neither be vague nor over-broad. The amendment to the IT Rules suffers on both accounts.
  - **Dr. Chinmayi Arun says "*Vagueness can have a chilling effect on free speech as intermediaries will err on the side of caution and remove content that may be controversial, but not necessarily illegal.*"**
- **Impact on Media and Freedom of the Press-** The new IT Rules have implications for social media platforms, internet service providers, news publishers, journalists, and readers. **Under the new amendments, social media intermediaries like Facebook and Twitter would have to take down posts and internet service providers**

would have to block URLs marked as fake — failure to do so could lead to social media platforms losing the safe harbour protections afforded to them under Section 79 of the IT Act. This threat may lead to self-censorship and limited media coverage. This potential chilling effect on the media undermines the freedom of the press and poses challenges to a vibrant and informed democratic society.

WHAT COULD BE DONE ?

- To effectively combat fake news, enacting a robust parliamentary legislation after debate and discussion should be preferred. This legislation should adhere to the principles outlined in Article 19(2) of the constitution, which sets limitations on free speech. Moreover, it should prevent the government from being the sole authority on determining truth. **In countries like France, independent judges, rather than the government, make declarations regarding misinformation during elections.**
- **Less Restrictive Alternatives and Democratic Participation-** While addressing the spread of fake news is a legitimate concern, alternative approaches should be explored. Governments can promote media literacy, critical thinking, and fact-checking initiatives to empower citizens in distinguishing accurate information from falsehoods. Furthermore, encouraging open dialogue and democratic participation allows diverse voices to contribute to the truth-finding process, reducing the need for top
- Any doubts in the minds of people that the power will be misused on behalf of the government should be addressed. In a climate where laws are increasingly weaponised to curb opposition and dissent, there should be enough checks and balances so that such provisions can not be misused.

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