**Fundamental Rights vs Directive Principles: What If there is a conflict?**

When there is a conflict between Fundamental Rights(FR) and Directive Principles of State Policy (DPSP), which should prevail? FR? or DPSP?

The answer is not as simple as one would think. There are some important Supreme Court judgements regarding this. We shall see them in detail.

**When there is a conflict between Fundamental Rights and DPSPs, which should prevail?**

DPSPs are not enforceable by law, but just directives to the state. But when the state tries to implement a DPSP, there can be a conflict between the Fundamental Rights of citizens and DPSP.

In that sense, the conflict between the [Fundamental Rights](https://www.clearias.com/fundamental-rights/) and [Directive Principles of State Policy](https://www.clearias.com/directive-principles-of-our-state-policy/) (DPSP) can also be seen as the conflict between the individual and the state.

While Parliament often tried to assert the supremacy of the state and DPSPs over Fundamental Rights, the [Supreme Court](https://www.clearias.com/union-judiciary-supreme-court/) upheld the rights of the individual as enshrined in the [Constitution](https://www.clearias.com/constitution-of-india/), by giving appropriate judgments.

Let us study the highlights of a series of court judgments like Champakam Dorairajan Case (1952), Golak Nath Case (1967), Kesavanath Bharathi Case (1973), Minerva Mill Case (1980) etc and see the present status.

**Case 1: Kerala Education Bill (1957): Doctrine of Harmonious Construction :**

Supreme Court in the Re Kerala Education Bill(1957) had propounded the **Doctrine of Harmonious Construction** to avoid a situation of conflict while enforcing DPSPs and the Fundamental Rights. As per this [doctrine](https://www.clearias.com/indian-judicial-doctrines/), the court held that there is no inherent conflict between FRs and DPSPs and the courts while interpreting a law should attempt to give effect to both as far as possible i. e. should try to harmonize the two as far as possible.

The court further said that where two interpretation of the law is possible, and one interpretation validates the law while other interpretation makes the law unconstitutional and void, then the first interpretation which validates the law should be adopted. But if only one interpretation is possible which leads to conflict between DPSPs and FRs, the court has no option but to implement FRs in preference to DPSPs.

**Case 2: Champakam Dorairajan Case (1952)**

**Court Verdict:** All Fundamental Rights are superior over DPSP.

**Parliament Reaction:** The parliament responded by amending and modifying various FRs which were coming in conflict with DPSPs.

**Case 3: Golak Nath Case (1967)**

**Court Verdict:**  Fundamental Rights cannot be abridged or diluted.

**Parliament Reaction:** The parliament responded again by bringing the 25th Amendment Act of the constitution which inserted Article 31C in Part III. Article 31 C contained two provisions:

a. If a law is made to give effect to DPSPs in Article 39(b) and Article 39(c) and in the process, the law violates Article 14, Article 19 or Article 31, then the law should not be declared as unconstitutional and void merely on this ground.

b. Any such law which contains the declaration that it is to give effect to DPSPs in Article 39(b) and Article(c) **shall not be questioned in a court of law**.

**Case 4: Kesavanath Bharathi Case (1973)**

The above amendment was challenged in the Kesavananda Bharati Case(1973).

**Court Verdict:** Parliament can amend any part of [Constitution](https://www.clearias.com/constitution-of-india/), but could not destroy Basic Structure of the Constitution. The second clause of Article 31C was as declared as unconstitutional and void as it was against the Basic Structure of the Constitution propounded in this case itself. However, the SC upheld the first provision of the Article 31C. The court also held that the power of Judicial review cannot be taken out by Parliament.

**Parliament Reaction:** Parliament brought the 42nd Amendment Act in 1976, which extended the scope of the above first provision of Article 31C by including within its purview **any law to implement any of the DPSPs** specified in Part IV of the constitutional and not merely Article 39 (b) or (c).

**Case 5: Minerva Mill Case (1980)**

**Court Verdict:** A law under Article 31C would be protected only if it is made to implement directives in article 39b and 39 c and not any other DPSPs. The extension to all DPSPs was declared as unconstitutional and void by the SC in the Minerva Mills Case(1980).

**Present Order of Precedence**

So, if there is a conflict between FR and DPSP, which should prevail? The present order of precedence is as below:

1. **FR except 14 and 19.**
2. **DPSP 39(b) and 39(c).**
3. **FR 14 and 19.**
4. **DPSP except 39(b) and 39(c).**

This means that DPSP 39B and 39C has been given precedence over Fundamental Right 14 (Right to Equality) and Fundamental Right 19 (Freedom of Speech and Expression).

**What is Article 39(b)?**

The State shall, in particular, direct its policy towards securing: that the ownership and control of the material resources of the community are so distributed as best to subserve the common good.

**What is Article 39(c)?**

The State shall, in particular, direct its policy towards securing: that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment.

**Also, read** [Indian Polity Notes Which You Shouldn’t Miss!](https://www.clearias.com/indian-polity/)

**Summary of the History of Conflict: Supreme Court vs Parliament**

* The Supreme Court in the Champakam Dorairajan Vs State of Madras(1951) held that DPSPs cannot override the provisions of Part III of the constitution. As per the judgment, the DPSPs have to run subsidiary to the FRs and have to confirm them.
* The parliament responded by amending and modifying various FRs which were coming in conflict with DPSPs. The Supreme court, however, in the Golknath Case(1967) pronounced that parliament cannot amend the FRs to give effect to the DPSPs. The parliament responded again by bringing the 25th Amendment Act of the constitution which inserted Article 31C in Part III. Article 31 C contained two provisions:
* a. If a law is made to give effect to DPSPs in Article 39(b) and Article 39(c) and in the process, the law violates Article 14, Article 19 or Article 31, then the law should not be declared as unconstitutional and void merely on this ground.
* b. Any such law which contains the declaration that it is to give effect to DPSPs in Article 39(b) & Article(c) **shall not be questioned in a court of law**.
* Later parliament brought the 42nd Amendment Act in 1976, which extended the scope of the above first provision of Article 31C by including within its purview **any law to implement any of the DPSPs** specified in Part IV of the constitutional and not merely Article 39(b) or (c). However, this extension was declared as unconstitutional and void by the SC in the Minerva Mills Case(1980).
* The present position is that only Article 39 (b) and Article 39 (c) can be given precedence over Article 14, 19 and not all the Directive Principles.

# मौलिक अधिकारों एवं नीति निर्देशक सिद्धांतों का तुलनात्मक अध्ययन

मौलिक अधिकार हमें राजनीतिक अधिकार प्रदान करते हैं जो कि व्यक्ति के व्यक्तित्व के विकास के लिए आवश्यक होते हैं जबकि राज्य के नीति निर्देशक सिद्धांतों के माध्यम से हमें सामाजिक और आर्थिक अधिकार प्राप्त होते हैं|इन तत्वों का कार्य एक जन-कल्याणकारी राज्य (welfare state) की स्थापना करना है। मौलिक अधिकारों को भारतीय संविधान के अनुच्छेद 12 से 35 में एवं नीति निर्देशक सिद्धांतों को अनुच्छेद 36 से 51 में उल्लेख किया गया है|

**[भारतीय राजनीति और शासन: समग्र अध्ययन सामग्री](http://www.jagranjosh.com/general-knowledge/%E0%A4%AD%E0%A4%BE%E0%A4%B0%E0%A4%A4%E0%A5%80%E0%A4%AF-%E0%A4%B0%E0%A4%BE%E0%A4%9C%E0%A4%A8%E0%A5%80%E0%A4%A4%E0%A4%BF-%E0%A4%94%E0%A4%B0-%E0%A4%B6%E0%A4%BE%E0%A4%B8%E0%A4%A8-%E0%A4%B8%E0%A4%AE%E0%A4%97%E0%A5%8D%E0%A4%B0-%E0%A4%85%E0%A4%A7%E0%A5%8D%E0%A4%AF%E0%A4%AF%E0%A4%A8-%E0%A4%B8%E0%A4%BE%E0%A4%AE%E0%A4%97%E0%A5%8D%E0%A4%B0%E0%A5%80-1465560661-2%22%20%5Ct%20%22_blank)**

**मौलिक अधिकारों और निर्देशक सिद्धांतों के बीच तुलनात्मक अंतर:**

|  |  |  |
| --- | --- | --- |
| **क्र.सं.** | **मौलिक अधिकार** | **निर्देशक सिद्धांत**  |
| **1.** |  ये नकारात्मक अधिकार हैं, क्योंकि इनमें से कुछ बातें राज्यों के लिए  निषेध है| | ये सकारात्मक अधिकार हैं, क्योंकि इनमें से कुछ बातें राज्यों के लिए बाध्यकारी है| |
| **2.** | ये अधिकार न्यायोचित हैं अर्थात कानूनी तौर पर इन अधिकारों का उल्लंघन होने पर अदालतों के द्वारा इन्हें पुनः लागू किया जा सकता है| | ये अधिकार गैर-न्यायोचित हैं अर्थात कानूनी तौर पर इन अधिकारों का उल्लंघन होने पर अदालतों के द्वारा इन्हें पुनः लागू नहीं किया जा सकता है| |
| **3.** | इन अधिकारों का लक्ष्य देश में राजनीतिक लोकतंत्र की स्थापना करना है| | इन अधिकारों का लक्ष्य देश में सामाजिक और आर्थिक लोकतंत्र की स्थापना करना है| |
| **4.** | इन अधिकारों के साथ कानूनी प्रतिबंध जुड़े हुए हैं| | इन अधिकारों के साथ कानूनी और राजनीतिक प्रतिबंध जुड़े हुए हैं| |
| **5.** | ये अधिकार व्यक्तियों के लोक-कल्याण को बढ़ावा देते हैं, इसलिए इन्हें व्यक्तिगत और व्यक्तिवादी अधिकार कहा जाता है| | ये अधिकार समाज-कल्याण को बढ़ावा देते हैं, इसलिए इन्हें समाजवादी अधिकार कहा जाता है| |
| **6.** | इन अधिकारों के कार्यान्वयन के लिए किसी भी कानून की आवश्यकता नहीं है, क्योंकि ये अधिकार स्वतः लागू होते हैं| | इन अधिकारों के कार्यान्वयन के लिए कानून की आवश्यकता होती है, क्योंकि ये अधिकार स्वतः लागू नहीं होते हैं| |
| **7.** | मौलिक अधिकारों को अदालतों के द्वारा असंवैधानिक या अवैध घोषित कर प्रतिबंधित किया जा सकता है| | निर्देशक सिद्धांतों को अदालतों के द्वारा असंवैधानिक या अवैध घोषित कर प्रतिबंधित नहीं किया जा सकता है| हालांकि, अदालतें किसी कानून की वैधता को इस आधार पर बरकरार रख सकते हैं कि उसे किसी निर्देश के प्रभाव को बढ़ाने के लिए अधिनियमित किया गया था। |

**Liberalization, Privatization and Globalization in India**

The economy of India had undergone significant policy shifts in the beginning of the 1990s. This new model of economic reforms is commonly known as the LPG or Liberalisation, Privatisation and Globalisation model. The primary objective of this model was to make the economy of India the fastest developing economy in the globe with capabilities that help it match up with the biggest economies of the world.

The chain of reforms that took place with regards to business, manufacturing, and financial services industries targeted at lifting the economy of the country to a more proficient level. These economic reforms had influenced the overall economic growth of the country in a significant manner.

**Liberalisation**
Liberalisation refers to the slackening of government regulations. The economic liberalisation in India denotes the continuing financial reforms which began since July 24, 1991.

**Privatisation and Globalisation**

Privatisation refers to the participation of private entities in businesses and services and transfer of ownership from the public sector (or government) to the private sector as well. Globalisation stands for the consolidation of the various economies of the world.

**LPG and the Economic Reform Policy of India**

Following its freedom on August 15, 1947, the Republic of India stuck to socialistic economic strategies. In the 1980s, Rajiv Gandhi, the then Prime Minister of India, started a number of economic restructuring measures. In 1991, the country experienced a balance of payments dilemma following the Gulf War and the downfall of the erstwhile Soviet Union. The country had to make a deposit of 47 tons of gold to the Bank of England and 20 tons to the Union Bank of Switzerland. This was necessary under a recovery pact with the IMF or International Monetary Fund. Furthermore, the International Monetary Fund necessitated India to assume a sequence of systematic economic reorganisations. Consequently, the then Prime Minister of the country, P V Narasimha Rao initiated groundbreaking economic reforms. However, the Committee formed by Narasimha Rao did not put into operation a number of reforms which the International Monetary Fund looked for.

Dr Manmohan Singh, the present Prime Minister of India, was then the Finance Minister of the Government of India. He assisted. Narasimha Rao and played a key role in implementing these reform policies.

**Narasimha Rao Committee's Recommendations**

The recommendations of the Narasimha Rao Committee were as follows:

* Bringing in the Security Regulations (Modified) and the SEBI Act of 1992 which rendered the legitimate power to the Securities Exchange Board of India to record and control all the mediators in the capital market.
* Doing away with the Controller of Capital matters in 1992 that determined the rates and number of stocks that companies were supposed to issue in the market.
* Launching of the National Stock Exchange in 1994 in the form of a computerised share buying and selling system which acted as a tool to influence the restructuring of the other stock exchanges in the country. By the year 1996, the National Stock Exchange surfaced as the biggest stock exchange in India.
* In 1992, the equity markets of the country were made available for investment through overseas corporate investors. The companies were allowed to raise funds from overseas markets through issuance of GDRs or Global Depository Receipts.
* Promoting FDI (Foreign Direct Investment) by means of raising the highest cap on the contribution of international capital in business ventures or partnerships to 51 per cent from 40 per cent. In high priority industries, 100 per cent international equity was allowed.
* Cutting down duties from a mean level of 85 per cent to 25 per cent, and withdrawing quantitative regulations. The rupee or the official Indian currency was turned into an exchangeable currency on trading account.
* Reorganisation of the methods for sanction of FDI in 35 sectors. The boundaries for international investment and involvement were demarcated.

The outcome of these reorganisations can be estimated by the fact that the overall amount of overseas investment (comprising portfolio investment, FDI, and investment collected from overseas equity capital markets ) rose to $5.3 billion in 1995-1996 in the country) from a microscopic US $132 million in 1991-1992. Narasimha Rao started industrial guideline changes with the production zones. He did away with the License Raj, leaving just 18 sectors which required licensing. Control on industries was moderated.

**Highlights of the LPG Policy**

Given below are the salient highlights of the Liberalisation, Privatisation and Globalisation Policy in India:

* Foreign Technology Agreements
* Foreign Investment
* MRTP Act, 1969 (Amended)
* Industrial Licensing
* Deregulation
* Beginning of privatisation
* Opportunities for overseas trade
* Steps to regulate inflation
* Tax reforms
* Abolition of License -Permit Raj

## “THE STATE” NEED FOR WIDENING THE DEFINITION IN THE WAKE OF LIBERALIZATION AND GLOBALIZATION.

**Introduction:**

            A discussion on the jurisprudential analysis of the law brings into picture the concept of the “State”, because, for a proper understanding of the law, some knowledge or some idea about the authority which makes and enforces the law is very much necessary for the fullest satisfaction in the process of understanding of the term, “State”. Though the existence of the law without the “State” is not an impossibility, jurisprudence concentrates mainly on the study of law of the civilised societies within a State. In other words, the jurisprudence is concerned with that law which is enforced within a community, organised as a State. Different Jurists had given different definitions of the term “State”.

According to “Holland”, “*It is an association of human beings generally occupying a territory for the attainment of internal order and external security”*.

According to “Salmond”, *“A State or Political Society is an association of human beings established for the attainment of certain means”*.

According to “R.G. Gettell”, *“A State is a community of persons permanently occupying a definite territory, legally independent of external control and possessing an organised Government which creates and administers law over all persons or groups within its jurisdiction”*.

Abstractly considered, “*A State is a juridical entity or Person*”.

Concretely considered, “*A State is a community which occupies a territory and wills & acts through the organization of a Government*”.

In brief, we may say that, “*A State is a community of considerable number of persons, occupying a territory permanently, independent of external control and having an organized Government to which habitual obedience is rendered by the inhabitants within its jurisdiction*”.

            There have been enough theories to explain the phenomenon of a “State”, given by different jurists at different times, such as, Force theory, Divine theory, Social Contract theory, Natural theory, Evolutionary theory, etc., and all the theories have contributed to the development of the concept of the term “State”. The relationship between the law and the State is very close and intimate, as the “State” manifests or expresses itself through the process of Law and the Law has its importance or sanctity through the sanction of the “State”. In this way the “State” has been the product of evolution and incessantly in the process of continuous development. With the advancement of time the concept of State has undergone radical changes. Originally a State was conceived as a “law and order State”. Thereafter, the philosophy of welfare State, (through various judicial interpretations), changed the functions and outlook of a State and it became the guardian of its members looking after and safeguarding the Human Rights and Fundamental Freedoms of its valuable citizens.

**The State in the Liberalized Economy (as per various *dicta* of the Supreme Court):**

            By 1947, when the Indian Constitution was in the process of development, it was well settled that the State bore a major responsibility for the welfare of its citizens. Therefore, the idea of welfare State has been deeply embodied in the various provisions of the Part-VI of the Indian Constitution. In ***Air India Statutory Corporation V. United Labour Union, AIR 1997 SC 645,*** the Apex Court said that, “*the directive principles have been described as forerunners of the United Nations Convention on Right to Development as an inalienable human right*”.For example Article 38 of the Constitution states that,

“*The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of national life*”

            Article 39 of the Constitution directs certain principles of policy to be followed by the State to ensure for its people adequate means of livelihood, fair distribution of wealth, equal pay for equal work and protection of children and labour. Article 39A of the Constitution directs to the State that,

“*The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity and shall in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities*”.

            Article 41 of the Constitution has directed the State that,

“*The State shall, within the limits of its economic capacity and development, make effective provisions for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement and in other cases of undeserved want*”.

            Thus, due to the unique importance of the term State in the Constitutional scheme of Part-III & IV, at the top of Part-III there is the definition of the term “The State”, in the Article 12 of the Constitution, which states that,

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

            By analysing this definition, we can observe that, Article 12 of the Constitution defines the expression of the term “the State” and not the term “State”, because, there is fundamental difference between the two terms i.e. “the State” and “State”. The expression of the term “the State” is broad enough so as to construe the Part-III & IV of the Constitution and its horizon is very large so as to include within its purview all the fundamental human rights of the people inhabiting within its jurisdiction. Therefore, in the case of ***State of Bihar V. Union of India, AIR 1970 SC 1446,*** the Supreme Court of India held that, the enlarged definition of the expression “the State” given in Article 12 of the Constitution includes:

\*        The Government of India.

\*        The Parliament of India.

\*        The Government of each of the States which constitute the Union of India.

\*        The Legislature of each of the States which constitute the Union of India.

\*        All local Authorities within the territory of India.

\*        All local Authorities under the control of the Government of India.

\*        All other Authorities within the territory of India, and

\*        All other Authorities under the control of the Government of India.

The State acts through the organs of the Government, which are primarily classified as Legislature, Executive and Judiciary. Any act by any of these organs constitutes a “State action”. The doctrine of “State action” originated in the United States nearly a century after the adoption of the Constitution in the United States through various judicial pronouncements. In India, however, the Supreme Court through judicial creativity introduced the doctrine of “State action”. The inclusive definition of the term “the State” in the Article 12 and enforceable nature of Part-III of the Constitution against the State has resulted into the judicial explosion of the term “the State”. Besides, the State in the Indian Constitution is vested with the powers from the protection of the National Monuments, ancient works of Art, Education & Culture of the people to the preservation of the forests and wildlife.

            Under the Constitutional scheme, the State, on the one hand guarantees the protection of fundamental rights contained in Part-III and on the other hand has been a duty bound to further policies to achieve the socio-economic agenda of India enshrined in Part-IV. Therefore, explaining the significance and scope of Article 12, Dr. Babasaheb Ambedkar in the Constituent Assembly in 1948, (**1948 CAD, Vol. VII, 610**) said,

“*The object of the Fundamental Rights is twofold. Firstly, that every citizen must be in a position to claim those rights. Secondly, they must be binding upon every authority. Explaining “upon every authority”, he said, the authority which has got either the power to make laws or the power to have discretion vested in it. Therefore, it is quite clear that, the Fundamental Rights must not be binding only upon the Central Government or the Provincial / State Governments, they must also be binding upon the district level boards, municipalities, even village panchayats and taluk boards, in fact, every authority which has been created by law and which has got certain power to make laws, to make rules or to make bye laws*”.

Therefore, very wide application of the “State action” has resulted into a long series of cases in which the Apex Court has extended the concept of State from time to time. In several judicial pronouncements the Public Corporations have been declared as “the State” bringing them into the category of “all other authorities within the territory of India or all other authorities under the control of the Government of India”.

In ***University of Madras V. Santa Bai, AIR 1954 Mad 67***, the Madras High Court held that “other authorities” could only indicate authorities of a like nature, i.e. *ejusdem generis.* So construed, it could only mean authorities exercising governmental or sovereign functions. It cannot include persons; natural or juristic, such as a University unless it is maintained by the State.

But, in ***Ujjammbai V. State of U.P., AIR 1962 SC 1621***, the Court rejected this restrictive interpretation of the expression “other authorities” given by the Madras High Court and held that, the *ejusdem generis* rule could not be resorted to in interpreting this expression. In Article 12 the bodies specifically named are the Government of the Union and the States, the Legislature of the Union and the States and all local or other authorities. There is no common genus running through these named bodies nor can these bodies so placed in one single category on any rational basis.

In ***Rajasthan State Electricity Board V. Mohan Lal, AIR 1967 SC 1857***, the Supreme Court held that, the expression “other authorities” is wide enough to include all authorities created by the Constitution or Statute on whom powers are conferred by law. It is not necessary that, the statutory authority should be engaged in performing governmental or sovereign functions. After this interpretation the expression other authorities included all the *Boards and Co-operative Societies,* which have power to make the bye-laws under the Co-operative Societies Act 1911. In *Parmatma Saran V. Chief Justice, AIR 1964 Raj 13*, the Chief Justice of a High Court is also included in the expression “other authorities” as he has the power to appoint the officials of the Court. In*Harroobhai V. State, AIR 1964 Guj 229*, the President when making the order under Article 359 of the Constitution comes within the ambit of the expression “other authorities”. In effect, the Rajasthan Electricity Board’s decision has overruled the decision of the Madras High Court in Santa bai’s case, holding a University not to be “the State”. And finally, in *Umesh V. V.N. Singh, AIR 1968 Pat 3*, the Patna High Court following the decision of the Supreme Court, has held that, the Patna University is “a State”.

The nature and scope of Article 12 was further expanded in ***Sukhdev Singh V. Bhagatram, AIR 1975 SC 1331***, the Supreme Court following the tests laid down in *Rajasthan State Electricity Board’s* case, by 4:1 majority, held that, ***ONGC, LIC & IFC***, are authorities within the meaning of Article 12 of the Constitution and therefore they are “the State”. All three statutory corporations have power to make regulations under the statute for regulating conditions of service of their employees. The rules and regulations framed by the above bodies have the force of law. The employees of these statutory bodies have a statutory status and they are entitled to claim protection under Articles 14, 16 & 21 of the Constitution, against the corporation, when their dismissal or removal is in contravention of the statutory provisions.

With the changing role of the State from merely being a police State to a welfare State it was necessary to widen the scope of the expression “other authorities” in Article 12 so as to include all those bodies which are, though not created by the Constitution or by a Statute, are acting as the agencies or instrumentalities of the Government. In modern times a Government has to perform manifold functions. For this purpose it has to employ various agencies to perform these functions. Hence, in subsequent decisions the Supreme Court has given a broad and liberal interpretation to the expression of the term “other authorities” so as to include it within the purview of the term “the State” in the Article 12 of the Constitution.

Justice Bhagwati further expanded the scope of the term “the State” in the case of ***R.D. Shetty V. International Airport Authority, AIR 1979 SC 1628***, and held that, the International Airport Authority, a body setup by a statute passed by the Parliament to be an “agency or instrumentality” of the Central Government and is also an authority within the meaning of Article 12 of the Constitution. Justice Bhagwati further stated that,

            “*The Corporations acting as agency or instrumentality of the Government would obviously be subject to the same limitations in the field of Constitutional and Administrative law as Government itself, though in the eye of law they would be distinct and independent legal entities. If Government acting through its officers is subject to certain Constitutional and public law limitations, it must follow a fortiori that Government acting through the agency or instrumentality of Corporations should equally be subject to the same limitations*”.

In this decision Justice Bhagwati identified the cumulative effect of all the following factors would constitute as the determinants of an agency or instrumentality of the Government:

* State financial support and control over the management and policies;
* A monopoly status conferred on the Corporation or protected by the State;
* The operation of the Corporation is an important public function;
* If the entire share capital of the corporation is held by the Government;
* Existence of deep and pervasive State control; and;
* If a department of the Government is transferred to a corporation, it would be a strong factor supportive of this inference of the corporation being an agency or instrumentality of the Government;

The Supreme Court in the leading case of ***Ajaya Hasia v. Khalid Mujib, AIR 1981 SC 487***, P.N. Bhagwati, J, observed that,

“*The Constitutional philosophy of a democratic socialist republic requires the Government to undertake a multitude of socio-economic operations and the Government having regard to the practical advantages of functioning through the legal device of a corporation embarks on myriad commercial and economic activities by resorting to the instrumentality or agency of a corporation, but this contrivance of carrying on such activities through a corporation cannot exonerate the Government from its basic obligation to respect the fundamental rights and not to override them. The mandate of a corporation may be adopted in order to free the Government from the inevitable constrains of red tapism and slow motion but by doing so, the Government cannot be allowed to play truant with the basic human rights. Otherwise, it would be the easiest thing for the Government to assign to a plurality of corporations almost every State business such as Post & Telegraph, TV & Radio, Rail, Road and Telephones-in short every economic activity and thereby cheat the people of India out of their Fundamental Rights guaranteed to them. The Courts should be anxious to enlarge the scope and width of the Fundamental Rights by bringing within their sweep every authority which is an instrumentality or agency of the Government or through the Corporate Personality of which the Government is acting”.*

*Ajay Hasia’s* decision was followed by another decision in the case of ***Som Prakash Rekhi V. Union of India, AIR 1981 SC 212***, in which *Justice Krishna Iyar* said,

“*Any authority under the control of the Government of India comes within the definition. While dealing with the Corporate Personality, it has to be remembered that while the formal ownership is cast in the corporate mould, the reality reached down to State control. The core fact is that the Central Government chooses to make over for better management of its own property to its own offspring. A Government Company is a mini-incarnation of Government itself, made up of its blood and bones and given corporate shape and status for defined objectives and not beyond. The device is too obvious for deception. A Government Company though, is but the alter ego of the Central Government and tearing of the juristic veil worn would bring out the true character of the entity being “the State”. It is immaterial whether the corporation is formed by a statute or under a statute, the test is functional*”.

In this decision Justice Krishna Iyar broadened the frontiers of the State by laying that the corporation would be an instrumentality or agency of the State if:

* Discharging functions or doing business as the proxy of the State by wearing the Corporate mask; and;
* An element of ability to affect legal relations by virtue of power vested in it by law.

In this background, however, in ***M.C. Mehta V. Union of India, AIR 1987 SC 1086***, the important question which was raised before the Supreme Court was, whether a Private Corporation fell within the ambit of Article 12, though was not finally decided by the Court but tempted to declare Shriram Food and Fertilizer Industry, a Private Corporation to be “the State” under Article 12, where the Private Sector was held to be subjected to Fundamental Rights and Directive Principles of State Policy. In its Judgment the Apex Court observed,

            “***In expanding economic activity in a liberalized economy, Part-IV of the Constitution enjoins not only the State and its instrumentalities but even private industries to ensure safety to the workmen and to provide facilities and opportunities for health and vigour of the workmen assured in relevant provisions of Part-IV which are integral part of Right to Equality under Article 14 and right to invigorated life under Article 21 which are fundamental rights of workmen***”.

In fact, Shriram Food and Fertilizer Industry was registered under the Industries (Development and Regulation) Act, 1951, and its activities were subject to extensive and detailed control and supervision by the Government. The industry had the potential to invade the Right to Life of large section of people. The learned Judge investigated the matter with the clear intention to answer the proposition whether Shriram is “the State” within the purview of Article 12, but suddenly withdrawn by adopting a *hyper-teleological* approach and restrained himself from making any definite pronouncement of far reaching consequences regarding the status of Private Corporations, though the learned Judge’s heartfelt sympathy for the gas leak victims is understandable. In this case Chief Justice Bhagwati said,

            “***The historical context in which the doctrine of “State action” evolved in the U.S. is irrelevant for India. But the principle behind the doctrine of “State action” i.e. State aid, State control and State regulation so impregnating a private activity as to give it the colour of “State action” is of interest to us to the limited extent to which it can be Indianised and harmoniously blended with our Constitutional jurisprudence***”.

With the era of Liberalization, Globalization and Privatization and as a consequence with the emergence of various multinational corporations, the Constitutionally conceived Indian Welfare State has turned into a Classic liberal State. The State socio-economic policy has been changed and the State is today distancing itself from the welfare activities and concentrating on the governance more. Due to the policy of Privatization whether the Public Corporations would remain State under Article 12 after Privatization is the fundamental question. Therefore, whatever the parameters of the Article 12 have been well settled accordingly there is an urgent need to expand them in the changed economic scenario.

            Due to the massive privatization there is an urgent need to widen the definition of the State under Article 12. All private enterprises and corporations do not exercise the authority of State but the big private organizations do exercise the authorities of the State. In such a situation a few new methods should be provided so as to bring such organizations within the ambit and scope of Article 12 of the Constitution, [*Amar Pratap Singh, “Free Market Economy And Archaic Article 12”, The Lawyers Collective*, *November 2004,* Mumbai], such as;

* Corporations employing more than 500 people should be State.
* A capital expenditure of more than 50 Crores would be enough for it to be “authority”.
* A proportionate turnover of the capital invested.
* Registered under the Companies Act, 1956 and regulated by various territorial legislations.
* Any private body performing the public functions.
* Any private agency or authority performing functions relating to the public health, etc.

Along with the tests laid down in *International Airport Authority’s case and Ajay Hasia’s case*, it is necessary to apply the above mentioned tests with modifications if necessary to determine the agency or instrumentality of the State under Article 12 so as to further safeguard the fundamental rights of citizens of India and to make the corporations and authorities constitutionally responsible and accountable. Because in India, “the State” is yet to fulfil its Constitutional agenda of delivering justice, social security and equality and for which it requires many agencies and instrumentalities to fulfil it, hence, without the State’s active interpretation by the judiciary, it is meaningless.

In the context of market economy there has been a considerable change in the matter of interpretation of Article 12 and this change could be well noticed in connection with the Fundamental Rights and Directive Principles of State Policy. For example;

In ***Ambika Prasad V. Orissa Engineering College, AIR 1989 Orissa 173***, it was held that, “*A private college which does not receive any aid from the State cannot be considered to be a State*”, but in ***Unnikrishnan V. State of A.P., AIR 1993 SC 2178***, the Apex Court held that, “*A private educational institution recognized by State or affiliated to University is an instrumentality of the State*”.

In the case of ***Steel Authority of India Ltd. V. National Union Water Front Workers, AIR 2001 SC 3527***, the Supreme Court ruled as; “*The Government acting through the instrumentality or agency of a corporation is subject to the same limitations as the Government is subjected to. Otherwise it would lead to the erosion of efficiency of the fundamental rights*”.

In ***Bharat Petroleum Corporation Limited V. Maddula Ratnavalli, (2007) 6 SCC 81***, the Supreme Court clearly held that, “*The appellant Company is a State within the meaning of Article 12 of the Constitution of India and it is therefore enjoined with a duty to act fairly and reasonably*”.

In ***U.P. Warehousing Corporation V. Vijai Narain, (1980) 3 SCC 459***, it was held that, the *U.P. Warehousing Corporation* which was constituted under a statute and owned and controlled by the Government was an agency or instrumentality of the Government and therefore “the State” within the meaning of Article 12. Its employees have a statutory status and therefore in case of wrongful dismissal of an employee a writ could be issued against such body.

In ***B.S. Minhas V. Indian Statistical Institute, (1983) 4 SCC 582***, it has been held that, the Indian Statistical Society, a society registered under the Societies Registration Act, 1860, being under the complete control of the Government of India is an instrumentality of the Central Government and therefore an authority under Article 12 of the Constitution. Accordingly, a writ-petition under Article 32 against the institute for violation of fundamental rights is maintainable.

So, the definition of “the State” is not confined to any Government department and the Legislature but, it extends to any action – administrative (whether statutory or non-statutory), judicial or quasi-judicial, which can be brought within the fold of “State action” being action which violates a fundamental right. In ***Star Enterprises V. City and Industrial Development Corporation of Maharashtra, (1990) 3 SCC 280 & Mahavir Auto Stores V. Indian Oil Corporation, (1990) 3 SCC 752***, it was also held that, “*A private body which is an agency of the State may be a “State” under Article 12 of the Constitution*”.

In a recent judgment of the Apex Court, in ***M.P. State Co-op. Dairy Fedn. Ltd. and Anr. Vs. Rajnesh Kumar Jamindar and Ors., MANU/SC/0638/2009, (2009)15SCC221***, it was held, “*whether an agency or instrumentality is State can be determined by applying the tests of administrative control, financial control and functional control — In the present case, Federation not only carries on commercial activities, but also it works for achieving the better economic development of a section of the people and seeks to achieve the principles laid down in Article 47 of the Constitution of India, viz. nutritional value and health — It undertakes a training and research work — Guidelines issued by it are binding on the societies — It monitors the functioning of the societies under it and is an apex body — Hence, Appellant would come within the purview of the definition of “State” as contained in Article 12 — Appeal by employees allowed and that of the Appellant dismissed*”.

***Ratio Decidendi****:*

*“Whether an agency or instrumentality is State can be determined by applying the tests of administrative control, financial control and functional control.”*

In ***Mysore Paper Mills Ltd. v. Mysore Paper Mills Officers' Association and another, (2002) 2 SCC 167***, the Apex Court observed as, “*A careful consideration of the principles of law noticed supra and the factual details not only found illustrated from the memorandum as well as Articles of Association of the appellant but enumerated from the day-to-day running of the business and administration of the company leave no room for any doubt as to the identity of the appellant-company being "other authority" and consequently "the State" within the meaning of Article 12 of the Constitution of India. The said definition has a specific purpose and that is part III of the Constitution, and not for making it a Government or department of the Government itself. This is the inevitable consequence of the "other authorities" being entities with independent status distinct from the state and this fact alone does not militate against such entities or institutions being agencies or instrumentalities to come under the net of Article 12 of the Constitution. The concept of instrumentality or agency of the Government is not to be confined to entities created under or which owes its origin to any particular statute or order but would really depend upon a combination of one or more of relevant factors, depending upon the essentiality and overwhelming nature of such factors in identifying the real source of governing power, if need be, by piercing the corporate veil of the entity concerned*”.

In ***G.M. Kisan Sahkari Chini Mills Ltd. V. Satrughan Nishad, (2003) 8 SCC 639***, the Apex Court ruled that, “*There can be no hard and fast formula and in different facts / situations and in different factors, it may be found to be overwhelming and indicating that the body is an authority under Article 12 of the Constitution*”.

**Conclusion:**

Therefore, from the above discussion, it can be concluded that, it is necessary to reconstruct the definition of “the State” to bring the private companies within the purview of Article 12 to realize the mandates of the Constitution. Guidelines should be developed in order to ascertain the nature and benefits of a private player’s dominance in the economy. If a private person, corporation or industry is found to be sufficiently powerful, it could be considered as part of the State under Article 12. Any such guidelines should consider matters such as number of employees, the company’s gross sales as a percentage of industry sales, industry sales as a percentage of GDP and other criteria that indicate ability to amass great power over the economy and the economic rights of the citizens. At this stage the matter is left to the Courts, which can determine which of the rights are most fundamental and hence, which rights must not be violated by the private corporations.

            Realizing the need to reconstruct the definition of “the State”, in the era of economic reforms, wherein the market forces are dominating, the Report of the National Commission to Review the Working of the Constitution, recommended that in Article 12 of the Constitution the explanation should be added that, “in this article, the expression ‘other authorities’ shall include any person to such of its functions which are of a public nature”. By such explanation all such authorities performing the functions of public nature would automatically be subject to Constitutional dictates and the need for widening the definition of the term “the State” in the Article 12, shall be satisfied in the era of liberalization, etc. However, so far, no Government in India has initiated a thought process in this direction and the matter has been completely left to the sweet will of the Judiciary.

#  The 'criminal candidates' standing in India's election

Election laws allow such candidates to run so long as they have not been convicted, on grounds both of fairness and because India’s criminal justice system moves so slowly that trials can take years, or even decades, to be resolved.

Still, the number of such candidates accused of offences ranging from murder to rioting has been rising with each election.

Analysts say political parties turn to them because they often have the deepest pockets in steadily costlier elections, and that some local strongmen are seen as having the best chance of winning.

Nearly one-in-five candidates running for parliament in the current election has an outstanding criminal case against them, inching up from 17% in the previous election and 15% in 2009, according to the Association for Democratic Reforms (ADR), a non-profit organisation that analysed candidates’ declarations.

The data shows that 40% candidates from BJP face criminal charges, including crimes against women and murder, followed by the Congress party at 39%.

Among the smaller parties, the Communist Party of India (Marxist) has an even higher proportion, with 58 percent of its candidates embroiled in criminal cases.

Polls have suggested that the BJP and its allies lead the race to win the mammoth, staggered election that began last month and ends on Sunday. Votes will be counted on Thursday.

“Parties only think about winnability and they know that money power and muscle power of such candidates ensures that win,” said Anil Verma, head of the ADR.

With 240 cases against him, K Surendran of the BJP tops the list of candidates with the most outstanding criminal complaints that include rioting, criminal trespass and attempted murder.

He said most of the cases stem from his involvement in the BJP campaign to oppose the entry of women and girls of menstruating age into the Sabarimala temple in his home state of Kerala.

“I understand that an outsider might feel that I am a grave offender but, in reality, I am completely innocent of these charges,” he said. “It was all politically motivated.”

Dean Kuriakose from the Congress party has 204 criminal cases against him, the second highest, the data showed. Most of the cases were related to a political agitation against the ruling Communist Party in Kerala, which turned violent.

He was not available for comment. But a party spokesman said Kuriakose was innocent. “He was falsely charged by the police under influence from Kerala government,” the spokesman said.

Political analysts say that often people vote for candidates who face criminal charges because they are seen as best placed to deliver results. In some parts of India local strongmen mediate in disputes and dispense justice.

“Powerful people, even if criminals, offer a kind of parallel system of redressal,” said K.C. Suri, a professor of political science at the University of Hyderabad.

A separate ADR survey of more than 250,000 voters last year found 98% felt candidates with criminal backgrounds should not be in parliament, though 35% said they were willing to vote for such a candidate on caste grounds or if the candidate had done “good work” in the past.

# केन्द्र-राज्य सम्बन्ध (संविधान) - UPSSSC Latest Online Form , Admit card, Result

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**अनुच्छेद 246:-**संसद को सातवीं अनुसूची की सूची 1 में प्रगणित विषयों पर विधि बनाने की शक्ति।
**अनुच्छेद 248:-**अवशिष्ट शक्तियां संसद के पास
**अनुच्छेद 249:-**राज्य सूची के विषय के सम्बन्ध में राष्ट्रीय हित में विधि बनाने की शक्ति संसद के पास
**अनुच्छेद 250:-**यदि आपातकाल की उद्घोषणा प्रवर्तन में हो तो राज्य सूची के विषय के सम्बन्ध में विधि बनाने की संसद की शक्ति
**अनुच्छेद 252:-**दो या अधिक राज्यों के लिए उनकी सहमति से विधि बनाने की संसद की शक्ति
**अनुच्छेद 257:-**संघ की कार्यपालिका किसी राज्य को निदेश दे सकती है
**अनुच्छेद 257 क:-**संघ के सशस्त्र बलों या अन्य बलों के अभिनियोजन द्वारा राज्यों की सहायता
**अनुच्छेद 263:-**अन्तर्राज्य परिषद का प्रावधान
भारत के संविधान ने केन्द्र-राज्य सम्बन्ध के बीच शक्तियों के वितरण की निश्चित और सुस्पष्ट योजना अपनायी है। संविधान के आधार पर संघ तथा राज्यों के सम्बन्धों को तीन भागों में विभाजित किया जा सकता है:
1.    केन्द्र तथा राज्यों के बीच विधायी सम्बन्ध।
2.    केन्द्र तथा राज्यों के बीच प्रशासनिक सम्बन्ध।
3.    केन्द्र तथा राज्यों के बीच वित्तीय सम्बन्ध।

**1.भारतीय संघ में केन्द्र-राज्य विधायी सम्बन्ध**

केन्द्र-राज्य सम्बन्ध के विधायी सम्बन्धों का संचालन उन तीन सूचियों के आधार पर होता है जिन्हें

1. संघ सूची (Union List)
2. राज्य सूची (State List)
3. समवर्ती सूची(Concurrent List)

का नाम दिया गया है। इन सूचियों को ***सातवीं अनुसूची*** में रखा गया है।
**संघ सूची:-**इस सूची में राष्ट्रीय महत्व के ऐसे विषयों को रखा गया है जिनके सम्बन्ध में सम्पूर्ण देश में एक ही प्रकार की नीति को अपनाना आवश्यक कहा जा सकता है। इस सूची के सभी विषयों में विधि निर्माण का अधिकार संघीय संसद को प्राप्त है। इस सूची में कुल 99 विषय हैं जिनमें से कुछ प्रमुख ये हैं-रक्षा, वैदेशिक मामले, युद्ध व सन्धि, देशीकरण व नागरिकता, विदेशियों का आना-जाना, रेल, बन्दरगाह, हवाई मार्ग, डाकतार, टेलीफोन व बेतार, मुद्रा निर्माण, बैंक, बीमा, खानें व खनिज, आदि।
**राज्य सूची:-**इस सूची में साधारणतया वे विषय रखे गये हैं जो क्षेत्रीय महत्व के हैं। इस सूची के विषयों पर विधि निर्माण का अधिकार सामान्यतया राजयों की व्यवस्थापिकाओं को प्राप्त है। इस सूची में 61 विषय हैं, जिनमें कुछ प्रमुख हैं: पुलिस, न्याय, जेल, स्थानीय स्वशासन, सार्वजनिक स्वास्थ्य, कृषि, सिंचाई और सड़कें आदि।
**समवर्ती सूची:-**औपचारिक रूप में और कानूनी दृष्टि से इन तीनों सूचियों के विषयों की संख्या वही बनी हुई है, जो मूल संविधान में थी। लेकिन 42वें संवैधानिक संशोधन (1976) द्वारा राज्य सूची के चार विषय (शिक्षा, वन, जंगली जानवर तथा पक्षियों की रक्षा और नाप-तौल) समवर्ती सूची में कर दिए गए हैं और समवर्ती सूची में एक नवीन विषय ’जनसंख्या नियन्त्रण और परिवार नियोजन’ शामिल किया गया है। इस प्रकार आज स्थिति यह है कि गणना की दृष्टि से समवर्ती सूची के विषयों की संख्या 52 हो गई है, लेकिन संवैधानिक दृष्टि से समवर्ती सूची के विषयों की संख्या आज भी 47 ही है। इस सूची में साधारणतया वे विषय रखे गए हैं, जिनका महत्व संघीय और क्षेत्रीय, दोनों ही दृष्टियों से है। इस सूची के विषयों पर संघ तथा राज्यों दोनों को ही कानून निर्माण का अधिकार प्राप्त है। यदि इस सूची के किसी विषय पर संघ तथा राज्य सरकार द्वारा निर्मित कानून परस्पर विरोधी हों, तो सामान्यतः संघ का कानून मान्य होगा। इस सूची में कुल 47 विषय हैं, जिनमें से कुछ प्रमुख विषय हैं: फौजदारी, विधि तथा प्रक्रिया, निवारक निरोध, विवाह और विवाह-विच्छेद, दत्तक और उत्तराधिकार, कारखाने, श्रमिक संघ, औद्योगिक विवाद, सामाजिक सुरक्षा और सामाजिक बीमा, पुनर्वास और पुरातत्व, शिक्षा और वन, आदि।
**अवशेष विषय:-**भारतीय संघ में कनाडा के संघ की तरह अवशेष विषयों के सम्बन्ध में कानून निर्माण की शक्ति संघीय व्यवस्थापिका को प्रदान की गयी है।
**राज्य सूची के विषयों पर संसद की व्यवस्थापन की शक्ति:-**
सामान्यतया संविधान द्वारा किए गए इस शक्ति विभाजन का उल्लंघन किसी भी सत्ता द्वारा नहीं किया जा सकता। संसद द्वारा राज्य सूची के किसी विषय पर और किसी राज्य की व्यवस्थापिका द्वारा संघ सूची के किसी विषय पर निर्मित कानून अवैध होगा। लेकिन संसद के द्वारा कुद विशेष परिस्थितियों के अन्तर्गत राष्ट्रीय हित तथा राष्ट्रीय एकता हेतु राज्य सूची के विषयों पर भी कानूनों का निर्माण किया जा सकता है। संसद को इस प्रकार की शक्ति प्रदान करने वाले संविधान के प्रमुख प्रावधान निम्नलिखित हैं:

1. **राज्य सूची का विषय राष्ट्रीय महत्व का होने पर:-** संविधान के अनुच्छेद 249 के अनुसार यदि राज्यसभा अपने दो-तिहाई बहुमत से यह प्रस्ताव स्वीकार कर लेती है कि राज्य सूची में उल्लिखित कोई विषय राष्ट्रीय महत्व का हो गया है, तो संसद को उस विषय पर विधि निर्माण का अधिकार प्राप्त हो जाता है। इसकी मान्यता केवल एक वर्ष तक रहती है। राज्यसभा द्वारा प्रस्ताव पुनः स्वीकृत करने पर इसकी अवधि में एक वर्ष की वृद्धि और हो जाएगी। इसकी अवधि समाप्त हो जाने के उपरान्त भी यह 6 माह तक प्रयोग में आ सकता है।
2. **राज्यों के विधानमण्डलों द्वारा इच्छा प्रकट करने पर:-** अनुच्छेद 252 के अनुसार यदि दो या दो से अधिक राज्यों के विधानमण्डल प्रस्ताव पास कर यह इच्छा व्यक्त करते हें कि राज्य सूची के किन्हीं विषयों पर संसद द्वारा कानून का निर्माण किया जाए, तो उन राज्यों के लिए उन विषयों पर अधिनियम बनाने का अधिकार संसद को प्राप्त हो जाता है। राज्यों के विधानमण्डल न तो इन्हें संशोधित कर सकते हैं और न ही इन्हें पूर्ण रूप से समाप्त कर सकते है
3. **संकटकालीन घोषणा होने पर (अनुच्छेद 250):-**संकटकालीन घोषणा की स्थिति में राज्य की समस्त विधायिनी शक्ति पर भारतीय संसद का अधिकार हो जाता है। इस घोषणा की समाप्ति के 6 माह बाद तक संसद द्वारा निर्मित कानून पूर्ववत् चलते रहेंगे
4. **विदेशी राज्यों से हुई सन्धियों के पालन हेतु (अनुच्छेद 253):-**यदि सरकार ने विदेशी राज्यों से किसी प्रकार की सन्धि की है अथवा उनके सहयोग के आधार पर किसी नवीन योजना का निर्माण किया है तो इस सन्धि के पालन हेतु संघ सरकार को सम्पूर्ण भारत की सीमा क्षेत्र के अन्तर्गत पूर्णतया हस्तक्षेप और व्यवस्था करने का अधिकार होगा। इस प्रकार इस स्थिति में भी संसद को राज्य सूची के विषय पर कानून निर्माण का अधिकार प्राप्त हो जाता है।
5. **राज्य में संवैधानिक व्यवस्था भंग होने पर (अनुच्छेद 356):-**यदि किसी राज्य में संवैधानिक संकट उत्पन्न हो जाए या संवैधानिक संकट उत्पन्न हो जाए या संवैधानिक तन्त्र विफल हो जाए तो राष्ट्रपति राज्य विधानमण्डल के समस्त अधिकार भारतीय संसद को प्रदान करता है।
6. **कुछ विधेयकों को प्रस्तावित करने और कुछ की अन्तिम स्वीकृति के लिए केन्द्र का अनुमोदन आवश्यक:-**अनुच्छेद 304(ख) के अनुसार कुछ विधेयक ऐसे होते हैं, जिनके राज्य विधानमण्डल में प्रस्तावित किए जाने के पूर्व राष्ट्रपति की पूर्व-स्वीकृति की आवश्यकता होती है। उदाहरण के लिए, वे विधयक, जिनके द्वारा सार्वजनिक हित की दृष्टि से उस राज्य के अन्दर या उसके बाहर व्यापार, वाणिज्य या मेलजोल पर कोई प्रतिबन्ध लगाए जाने हों।

अनुच्छेद 31(ग) के अनुसार राज्य सूची के ही कुछ विषयों पर राज्यों की व्यवस्थापिकाओं द्वारा पारित विधेयक उस दशा में अमान्य होंगे, यदि उन्हें राष्ट्रपति के विचारार्थ न रोके रखा हो और उन पर राष्ट्रपति की स्वीकृति न प्राप्त कर ली गयी हो। उदाहरण के लिए, किसी राज्य द्वारा सम्पत्ति के अधिग्रहण के लिए बनाए गए कानूनों या समवर्ती सूची के विषयों के बारे में ऐसे कानूनों, जो संसद के उससे पहले बनाए गए कानून के प्रतिकूल हों या उन पर जिनके द्वारा ऐसी वस्तुओं की खरीद और बिक्री पर लगाया जाने वाला हो, जिन्हें संसद ने समाज के जीवन के लिए आवश्यक घोषित कर दिया है, राष्ट्रपति की स्वीकृति आवश्यक है।
**राज्य-सूची के विषयों पर केन्द्रीय हस्तक्षेप:-**राज्यों द्वारा यह भी शिकायत की गयी है कि केन्द्र उद्योग, व्यापार एवं वाणिज्य जैसे विषयों पर कानून बनाने लग गया है, जबकि ये विषय राज्य सूची में उल्लिखित हैं। सन् 1951 में संसद ने उद्योग विकास एवं नियन्त्रण अधिनियम पारित किया, जिसमें उन उद्योगों का उल्लेख किया गया, जिन पर जनहित में केन्द्र द्वारा नियन्त्रण करना आवश्यक था। धीरे-धीरे अनेक उद्योगों को इस अधिनियम के अन्तर्गत ले लिया गया। इस प्रकार राज्य सूची में वर्णित 24, 26 तथा 27 क्रम वाले विषयों पर केन्द्र का अधिकार स्थापित हो गया। यही नहीं, रेजन पत्ती, कागज, गोंद, जूते, माचिस, साबुन, आदि से सम्बन्धित उद्योगों पर भी केन्द्रीय सरकार का नियन्त्रण स्थापित हो गया। राज्यों के नेताओं का कहना है कि इस प्रकार के अत्यधिक केन्द्रीकरण से राज्यों का आर्थिक विकास अवरूद्ध हो रहा है।
**2. भारतीय संघ में केन्द्र-राज्य**

**प्रशासनिक सम्बन्ध**

**प्रशासनिक सम्बन्ध: संवैधानिक परिप्रेक्ष्य में**
भारतीय संविधान के ग्यारहवें भाग के दूसरे अध्याय में केन्द्र तथा राज्यों के बीच प्रशासनिक सम्बन्धों की चर्चा की गयी है। संविधान के अनुच्छेद 73 के अनुसार केन्द्र की प्रशासकीय शक्ति उन विषयों तक सीमित है जिन पर संसद को विधि निर्माण का अधिकार प्राप्त है। इसी प्रकार संविधान के अनुच्छेद 162 के अनुसार राज्यों की प्रशासकीय शक्तियां उन विषयों तक सीमित हैं जिन पर राज्य विधानसभाओं को कानून बनाने का अधिकार है। समवर्ती सूची के विषयों के सम्बन्ध में प्रशासनिक अधिकार साधारणतया राज्यों में निहित हैं, किन्तु इन विषयों पर राज्य की प्रशासकीय शक्तियों को संघ की ऐसी प्रशासनिक शक्तियों द्वारा सीमित रखा गया है जो या तो संविधान द्वारा या संसदीय विधि द्वारा प्रदत्त हैं।
प्रशासनिक सम्बन्ध
**(क) राज्यों के ऊपर संघीय नियन्त्रण के उपाय:-**संकटकाल में केन्द्रीय सरकार का राज्य सरकार के ऊपर पूर्ण नियन्त्रण रहता है। साधारण काल में यद्यपि राज्य सरकारों को सामान्यतया अपने क्षेत्र में पूर्ण सत्ता प्राप्त रहती है फिर भी केन्द्रीय सरकार कुछ सीमा तक उन्हें नियन्त्रित करती है। नियन्त्रण के अग्रलिखित साधनों को अपनाया गया है:

* **राज्य सरकारों को निर्देश:-** अनुच्छेद 256 के अनुसार राज्य की कार्यपालिका शक्ति का प्रयोग इस प्रकार होगा कि संसद द्वारा निर्मित कानूनों का पालन सुनिश्चित रहे। संघीय कार्यपालिका को यदि वह आवश्यक समझे तो इस सम्बन्ध में राज्य सरकारों को आवश्यक निर्देश द्वारा पारित विधियों के क्रियान्वयन के मार्ग में कोई बाधा न पहुंचे।

**अनुच्छेद 257** में उपबन्धित किया गया है कि प्रत्येक राज्य की कार्यपालिका शक्ति का इस प्रकार प्रयोग होना चाहिए जिससे संघ की कार्यपालिका शक्ति के प्रयोग में बाधा या प्रतिकूल प्रभाव न पड़े तथा संघ की कार्यपालिका शक्ति का विस्तार किसी राज्य को ऐसे निर्देश देने तक विस्तृत होगा, जो भारत सरकार को इस प्रयोग के लिए आवश्यक दिखायी दे। यह देखना भी संघ की कार्यपालिका का कर्तव्य है कि राज्य सरकारें सामरिक महत्व की सड़कों और अन्य संचार साधनों की उचित देखभाल करें।
संघीय कार्यपालिका किसी राज्य क्षेत्र के अन्तर्गत रेल-पथ की रक्षा के लिए उस राज्य की सरकार को निर्देश दे सकती है। संचार साधनों तथा रेल-पथों के निर्माण, देखभाल तथा संरक्षण के सम्बन्ध में संघीय कार्यपालिका के निर्देश के कारण जो अतिरिक्त व्यय होगा, उस अतिरिक्त धनराशि का वहन संघीय सरकार को करना होगा।
उल्लेखनीय यह है कि अनुच्छेद 256 संघीय कार्यपालिका को उसके निर्देशों को लागू करने के लिए बाध्यकारी शक्ति प्रदान करता है। इसके अन्तर्गत राज्य सरकार द्वारा निर्देशों का पालन न किए जाने पर राष्ट्रपति संकटकाल की उद्घोषणा कर राज्य के शासन को अपने हाथ में ले सकता है।

* **राज्य सरकारों को संघीय कृत्य सौंपना:-** अनुच्छेद 258 में निर्धारित शर्तों के अनुसार संघ राज्यों को अपने कुछ प्रशासनिक कृत्य हस्तान्तरित कर सकता है तथा राज्य संघ को अपने कुछ प्रशासनिक कृत्य सौंप सकते हैं। संघ सरकार द्वारा राज्य सरकारों को अपने प्रशासनिक कृत्य सौंपे जाने पर इन कृत्यों को सम्पन्न करने में जो भी खर्च होगा उसका वहन संघीय सरकार करेगी।
* **अखिल भारतीय सेवाएं:- *अनुच्छेद 312*** के अनुसार राज्यसभा उपस्थित तथा मतदान में भाग लेने वाले सदस्यों के कम-से-कम दो-तिहाई बहुमत द्वारा प्रस्ताव पास कर किसी नवीन अखिल भारतीय सेवा का निर्माण कर सकती है। यद्यपि इन सेवाओं के सदस्यों द्वारा वेतन, भत्ते, आदि राज्य सरकारों से प्राप्त किए जाते हैं, लेकिन उनकी वेतन शृंखला और अन्य उपलब्धियां केन्द्र सरकार द्वारा ही निश्चित की जाती हैं। इसके अतिरिक्त, इन सेवाओं के सदस्यों के विरूद्ध कोई भी अनुशासन सम्बन्धी कार्यवाही संघीय गृह मन्त्रालय द्वारा संघ लोक सेवा आयोग के परामर्श के आधार पर ही की जा सकती है। ये अखिल भारतीय सेवाएं राज्य सरकारों पर केन्द्रीय नियन्त्रण के बहुत अधिक महत्वपूर्ण उपाय हैं।
* **सहायता अनुदान:-**अनुच्छेद 275 के अनुसार संसद राज्यों को आवश्यकतानुसार सहायता व अनुदान भी दे सकती हे। अनुदान देते समय संसद राज्यों पर कुछ शर्तें लगाकर उनके व्यय को भी नियन्त्रित कर सकती है।
* **आपातकाल की घोषणा:-**इन सबके अतिरिक्त जब राष्ट्रपति अनुच्छेद 352 के अन्तर्गत आपातकाल की घोषणा करते हैं तब राज्यों पर संघीय सरकार का पूर्ण नियन्त्रण स्थापित हो जाता है।

**(ख) केन्द्र-राज्य मतभेदों के निवारण की विधियां:-**संघीय शासन प्रणाली में पारस्परिक सहयोग होना आवश्यक है। यद्यपि राज्यों को पृथक क्षेत्राधिकार प्राप्त हैं तथापि संविधान में निम्नलिखित विषयों पर राज्यों के पारस्परिक सहयोग पर बल दिया गया है:

1. **संघीय क्रियाओं, अभिलेखों तथा न्यायिक कार्यवाहियों को मान्यता प्रदान करना:-**अनुच्छेद 261 के अनुसार, भारत के राज्य क्षेत्र में सर्वत्र संघ की तथा प्रत्येक राज्य की सार्वजनिक क्रियाओं, अभिलेखों तथा न्यायिक कार्यवाहियों को पूरी मान्यता दी जाएगी। इनकी प्राथमिकता सिद्ध करने की रीति और शर्तें तथा उनके प्रभाव का निर्धारण संसद द्वारा उपबन्धित रीति के अनुसार होगा। यह भी आयोजित किया गया है कि भारत के राज्य क्षेत्र के किसी भाग के दीवानी न्यायालयों द्वारा दिए गए निर्णय तथा आदेश उस राज्य क्षेत्र के अन्दर सभी स्थानों पर निष्पादित किए जाएंगे।
2. **अन्तर्राज्यीय नदियों या नदी के जल सम्बन्धी विवादों का निर्णय:-** अनुच्छेद 262 के अनुसार, किसी अन्तर्राज्यीय नदी तथा घाटी के या जलाशयों के प्रयोग, वितरण, विवाद या फरियाद के न्याय निर्णय के बारे में संसद विधि द्वारा व्यवस्था करेगी। ऐसे विवाद के सम्बन्ध में संसद यह निर्णय भी कर सकती है कि सर्वोच्च न्यायालय या अन्य कोई न्यायालय इस सम्बन्ध में क्षेत्राधिकार का प्रयोग नहीं करेगा।
3. **अन्तर्राज्य परिषद की व्यवस्था:-** अनुच्छेद 263 के अन्तर्गत, राज्यों के पारस्परिक सहयोग के लिए एक अन्तर्राज्यीय परिषद का प्रावधान किया गया है। इस परिषद का प्रमुख कार्य राज्यों के मध्य विवादों का परीक्षण करना तथा उन पर परामर्श देना है। भारतीय राज व्यवस्था में पहली बार जून 1990 में अन्तर्राज्य परिषद की स्थापना की गई है।
4. **क्षेत्रीय परिषदों  का निर्णय(Zonal Councils):-**क्षेत्रीय परिषदों का निर्माण भी किया जा सकता है। व्यवहार में सम्पूर्ण भारत को पांच क्षेत्रों में विभाजित किया गया है और प्रत्येक क्षेत्र के लिए एक क्षेत्रीय परिषद है। क्षेत्रीय परिषदों के कार्य उन विषयों से सम्बन्धित होंगे जिनमें क्षेत्र के सभी या कुछ राज्य या संघ और एक या अधिक राज्य रुचि रखते हैं।
5. **अन्तर्राज्यीय व्यापार-**वाणिज्य से सम्बन्धित संविधान के प्रावधानों के क्रियान्वयन के लिए अनुच्छेद 307 के अनुसार संसद एक प्राधिकारी की नियुक्ति करेगी तथा उसको ऐसी शक्तियां और कर्तव्य सौंप सकती है जो वह आवश्यक समझे।
6. इसके अतिरिक्त कतिपय ऐसे भी विषय हैं जिनका सम्बन्ध यद्यपि दोनों सरकारों से है तथापि इनका निर्धारण केन्द्रीय सरकार ही करती है। उदाहरण के लिए, निर्वाचन, लेखा परीक्षण, राज्यपाल की नियुक्ति, आदि।

**3. भारतीय संघ में केन्द्र-राज्य वित्तीय सम्बन्ध**
**केन्द्र-राज्य वित्तीय सम्बन्ध: संवैधानिक प्रावधान**
केन्द्र तथा राज्यों के मध्य राजस्व के साधनों के विभाजन के आधारभूत सिद्धान्त हैं-कार्यक्षमता, पर्याप्तता तथा उपयुक्तता। इन तीनों उद्देश्यों की एक साथ ही प्राप्ति अत्यन्त कठिन थी, अतः भारतीय संविधान में समझौतें की चेष्टा की गयी। संविधान द्वारा केन्द्र तथा राज्यों के मध्य वित्तीय सम्बन्धों को निरूपण इस प्रकार किया जाता है:
**1. कर निर्धारण, शक्ति का वितरण और करों से प्राप्त आय का विभाजन:-** भारतीय संविधान में वित्तीय प्रावधानों की दो विशेषताएं हैं: प्रथम, संघ तथा राज्यों के मध्य कर-निर्धारण की शक्ति का पूर्ण विभाजन कर दिया गया है और द्वितीय, करों से प्राप्त आय का बंटवारा होता है।
संघ के प्रमुख राजस्व स्रोत इस प्रकार हैं-निगम कर, सीमा शुल्क, निर्यात शुल्क, कृषि भूमि को छोड़कर अन्य सम्पत्ति पर सम्पदा शुल्क, विदेश ऋण, रेलें, रिजर्व बैंक, शेयर, बाजार, आदि। राज्यों के राजस्व स्रोत हैं-प्रति व्यक्ति कर, कृषि भूमि पर कर, सम्पदा शुल्क, भूमि और भवनों पर कर, पशुओं तथा नौकाओं पर कर, बिजली के उपयोग तथा विक्रय पर कर, वाहनों पर चुंगी कर, आदि।
**संघ द्वारा आरोपित तथा संग्रहीत तथा विनियोजित किए जाने वाले शुल्कों के उदाहरण हैं:** बिल, विनिमयों, प्रोमिसरी नोटों, हुण्डियों, चैकों, आदि पर मुद्रांक शुल्क और दवा, मादक द्रव्य पर कर, शौक-श्रंगार की चीजों पर कर तथा उत्पादन शुल्क।
**संघ द्वारा आरोपित तथा संग्रहीत किन्तु राज्यों को सौंपे जाने वाले करों के उदाहरण हैं:** कृषि भूमि के अतिरिक्त अन्य सम्पत्ति के उत्तराधिकार पर कर, कृषि भूमि के अतिरिक्त अन्य सम्पत्ति पर सम्पदा शुल्क, रेल, समुद्र, वायु द्वारा ले जाने वाले माल तथा यात्रियों पर सीमान्त कर, रेल भाड़ों तथा वस्तु भाड़ों पर कर, शेयर बाजार तथा सट्टा बाजार के आदान-प्रदान पर मुद्रांक शुल्क के अतिरिक्त कर, समाचार-पत्रों के क्रय-विक्रय तथा उसमें प्रकाशित किए गए विज्ञापनों पर और समाचार-पत्रों के अन्य अन्तर्राज्यीय व्यापार तथा वाणिज्य से माल के क्रय-विक्रय पर कर।
कतिपय कर संघ द्वारा आरोपित तथा संग्रहीत किए जाते हैं, पर उनका विभाजन संघ तथा राज्यों के बीच होता है। आय-कर का विभाजन संघीय भू-भागों के लिए निर्धारित निधि तथा संघीय खर्च को काटकर शेष राशि में से किया जाता है। आय-कर के अतिरिक्त दावा तथा शौक-शंृगार सम्बन्धी चीजों के अतिरिक्त अन्य चीजों पर लगाया गया उत्पादन शुल्क इसके अन्तर्गत आता है।
**2. सहायता अनुदान तथा अन्य सार्वजनिक उद्देश्य के लिए दिया जाने वाला अनुदान:-** संविधान के अन्तर्गत केन्द्र द्वारा राज्यों को चार तरह के सहायक अनुदान प्रदान करने की व्यवस्था की गयी है। ***प्रथम*** पटसन व उससे बनी वस्तुओं के निर्यात से जो शुल्क प्राप्त होता है उसमें से कुछ भाग अनुदान के रूप में जूट पैदा करने वाले राज्यों-बिहार , पं0 बंगाल, असम व उड़ीसा-को दे दिया जाता है। ***द्वितीय,*** बाढ़, भूकम्प व सूखाग्रस्त क्षेत्रों में पीडि़तों की सहायता के लिए भी केन्द्रीय सरकार राज्यों को अनुदान दे सकती है। ***तृतीय,*** जनजातियों व कबीलों की उन्नति व उनके कल्याण की योजनाओं के लिए भी सहायक अनुदान दिया जाता है। ***चतुर्थ,*** राज्यों को आर्थिक कठिनाइयों से उबारने के लिए केन्द्र राज्यों की वित्तीय सहायता कर सकता है।
**3. ऋण लेने सम्बन्धी उपबन्ध:-** संविधान केन्द्र को यह अधिकार प्रदान करता है कि वह अपनी संचित निधि की साख पर देशवासियों व विदेशी सरकारों से ऋण ले सके। ऋण लेने का अधिकार राज्यों को भी प्राप्त है, परन्तु वे विदेशों से उधार नहीं ले सकते। यदि किसी राज्य सरकार पर संघ सरकार का कोई कर्ज बाकी है तो राज्य सरकार अन्य कर्ज संघ सरकार की अनुमति से ही ले सकती है। इस प्रकार का कर्ज देते समय संघ सरकार किसी भी प्रकार की शर्त लगा सकती है।
**4. करों की विमुक्ति:-** राज्यों द्वारा संघ की सम्पत्ति पर कोई कर तब तक नहीं लगाया जा सकता जब तक संसद विधि द्वारा कोई प्रावधान न कर दे। भारत सरकार या रेलवे द्वारा प्रयोग में आने वाली बिजली पर संसद की अनुमति के अभाव में राज्य किसी प्रकार का शुल्क नहीं लगा सकते। इसी प्रकार संघ सरकार भी राज्य की सम्पत्ति और आय पर कर नहीं लगा सकती।
**5. भारत के नियन्त्रक-महालेखा परीक्षक द्वारा नियन्त्रण:-** भारत के नियन्त्रक-महालेखा परीक्षक की नियुक्ति केन्द्रीय मन्त्रिमण्डल के परामर्श से राष्ट्रपति करता है। यह भारत सरकार तथा राज्य सरकारों के हिसाब का लेखा रखने के ढंग और उनकी निष्पक्ष रूप से जांच करता है। नियन्त्रक तथा महालेखा परीक्षक के माध्यम से ही भारतीय संसद राज्यों की आय पर अपना नियन्त्रण रखती है।
**6. वित्तीय संकटकाल:-** वित्तीय संकटकालीन घोषणा की स्थिति में राज्यों की आय सीमा राज्य सूची में चर्चित करों तक ही सीमित रहती है। वित्तीय संकट के प्रवर्तन काल में राष्ट्रपति को संविधान के उन सभी प्रावधानों को स्थगित करने का अधिकार है जो सहायता अनुदान अथवा संघ के करों को आय में भाग बंटाने से सम्बन्धित हों। केन्द्रीय सरकार वित्तीय मामलों में राज्यों को निर्देश भी दे सकती है।
**राज्यपाल:-** आयोग का सुझाव है कि केन्द्र में सत्तारूढ़ दल के अलावा किसी अन्य दल द्वारा शासित राज्य में केन्द्र में सत्तारूढ़ दल के किसी व्यक्ति को राज्यपाल नियुक्त नहीं किया जाना चाहिए। राज्य के पद से निवृत्त होने के बाद किसी व्यक्ति को लाभ का कोई भी पद नहीं देना चाहिए। वह राष्ट्रपति पद या उपराष्ट्रपति पद के लिए चुनाव लड़ सकता है, पर दलगत राजनीति में सक्रिय भाग नहीं ले सकता। आयोग का सुझाव है कि संविधान के अनुच्छेद 155 में संशोधन कर राज्यपाल की नियुक्ति के बारे में राज्य के मुख्यमंत्री से सलाह-मशविरे की व्यवस्था अनिवार्य कर दी जानी चाहिए।
राज्यपाल के पद पर ऐेसे व्यक्ति को ही नियुक्त किया जाना चाहिए जो किसी क्षेत्र में जानी-मानी हस्ती हो। वह ऐसा व्यक्ति होना चाहिए, जिसने दलीय राजनीति में सक्रिय भाग, विशेषकर नियुक्ति के तत्काल पहले सक्रिय भाग न लिया हो।
**जांच आयेाग:-** केन्द्र सरकार को किसी राज्य के मुख्यमन्त्री या पूर्व मुख्यमंत्री के विरूद्ध पद के दुरुपयोग के आरोपों की जांच के लिए जांच आयोग नियुक्त करने का अधिकार है। इस अधिकार का दुरुपयोग न किया जा सके, इसके लिए व्यवस्था होनी चाहिए कि केन्द्र सरकार के ऐसे किसी प्रस्ताव पर संसद के दोनों सदनों का अनुसमर्थन आवश्यक हो।

# Types of Grants-in-aid in Indian Constitution

Apart from distribution of taxes between centre and states, the constitution provides for mainly two types of grants-in-aid viz. statutory grants and discretionary grants:

#### Statutory Grants

Article 275 makes provisions for statutory grants to needy states {not every state}. These are charged on Consolidated Fund of India. Such grants also include specific grants for promoting the welfare of the scheduled tribes in a state or for raising the level of administration of the scheduled areas in a state including the State of Assam. The bases of these grants are recommendations of finance commission.

#### Discretionary Grants

Under article 282, both centre and states are able to make any grants for public purpose even if they are not within their legislative competence. Since such grants are discretionary, there are no obligations to make such grants. During the planning commission era, these discretionary grants were in fact bigger than statutory grants and that is why planning commission had assumed very important role.

#### Other Grants

For initial 10 years, constitution had made special grants for Assam, Bihar, Odisha and West Bengal for promotion and protection of jute industry.

# India: Between Religious Murder and Secularism

12-15 minutes

As a society, India must admit that religious extremism and hatred are deeply entrenched in its sociocultural body politic.

On December 6, 2017, a [Muslim migrant laborer, Mohammed Afrazul](https://scroll.in/latest/860643/rajasthan-muslim-labourer-allegedly-hacked-to-death-in-rajsamand-district-video-goes-viral%22%20%5Ct%20%22_blank), was hacked to death and set on fire by an unemployed [Hindu fanatic Shambhu Lal Regar](http://www.hindustantimes.com/india-news/rajasthan-murder-caught-on-video-accused-s-neighbours-shocked-say-he-was-disturbed/story-txyMKYjin1l9DOzJg8gj5K.html%22%20%5Ct%20%22_blank) in a small, sleepy Indian town of Rajsamand. Afterward, he posted a video of the brutal murder online, in which he claimed to have murdered Afrazul to avenge the so-called “[love jihad](https://www.newyorker.com/culture/2017-in-review/the-year-of-love-jihad-in-india%22%20%5Ct%20%22_blank)” (a term used by Hindu nationalists to describe a practice in which Muslim men feign love to draw Hindu women away from their faith).

The gory video has left many shocked and aghast. The longtime supporter of Hinduism, Washington-based [Baluch activist Ahmar Mustikhan](https://mustikhan.com/2017/12/10/are-hindus-of-india-becoming-like-muslim-jihadis/amp/?_twitter_impression=true) wrote: “My head is bowed in shame as a defender of Hinduism as a humanist faith and an Indophile. I am speechless and very angry.” He compared the perpetrator to the Islamists [Michael Adebolajo and Michael Adebowale](https://mustikhan.com/2017/12/10/are-hindus-of-india-becoming-like-muslim-jihadis/amp/?_twitter_impression=true" \t "_blank), who brutally murdered Fusilier Lee Rigby in London in 2013. The [Huffington Post quotes](http://www.huffingtonpost.in/2017/12/07/barbaric-video-shows-muslim-labourer-being-hacked-to-death-burnt-alive-for-alleged-love-jihad-in-rajasthan_a_23299784/) the daughter of Afrazul saying, “They butchered my father like an animal.”

At this point, the debate shifts to an altogether different category where one feels the urge to look for a suitable nomenclature for an extremist strand in Hinduism.

But when this author confronted the middle and lower middle-class Hindus from the upper castes and the people from the Regar community (a Hindu lower caste to which Regar belonged) in Udaipur and the other neighboring districts of the perpetrator’s hometown, Rajsamand, he came across a very different set of sentiments. Many of those far away from the elitist, Anglicized, liberal corridors of the Oxbridge and Ivy-league world praised the killer for avenging the perpetrators of the love jihad and felt that the time has come for Hindus to take revenge for the supposedly Muslim atrocities of the last 1,000 years.

#### Underlying Rifts

One glance at the social media outburst over the murder showcases the underlying social rift. The more sensible and thoughtful comments condemn the murder but add a qualifier that intellectuals and the media are selective in their outrage, meaning that when such brutalities are faced by non-Muslims in India, the reaction is muted. Many questioned the national media’s silence when a [Christian professor’s hands were chopped off](http://indianexpress.com/article/india/india-others/13-guilty-of-chopping-kerala-professors-hand/%22%20%5Ct%20%22_blank) by Muslim students in Kerala for setting a grammar question that involved the name Muhammad, numerous [Rashtriya Swayamsewak Sangh](https://timesofindia.indiatimes.com/india/rss-worker-hacked-critically-injured-police/articleshow/61092342.cms) (RSS, a Hindu nationalist organization and is regarded as a parent organization of the ruling Bhartiya Janta Party) workers were brutally murdered by Islamists and communists in Kerala, and a [Hindu activist Paresh Mesta’s](https://www.deccanchronicle.com/nation/current-affairs/111217/honnavar-tense-as-saffron-leaders-give-death-a-communal-colour.html%22%20%5Ct%20%22_blank) genitals were cut off and face burned with boiling water by Islamists in Karnataka.

The prevalent complaint runs that in cases when the Hindu-majority community faces similar brutality at the hands of Islamists, the “liberal cabal” ignores the element of religious hatred, and, if anyone does bring it up, he or she is accused of giving the issue a “communal color.” For example, the online magazine Scroll.in headlined the article about Paresh’s murder with “[BJP continues to fan communal tensions in coastal Karnataka over a young man’s mysterious death](https://scroll.in/article/861774/bjp-continues-to-fan-communal-tensions-in-coastal-karnataka-over-a-young-mans-mysterious-death%22%20%5Ct%20%22_blank).”

Whenever India raises a step higher on the global barbarity index following such incidents, the end effect is almost always a polarization of Hindu versus Muslim. Even the lip service of condemning such despicable incidents does not remain an honest exercise. Right-wing political parties and cultural groups start complaining of liberal hypocrisy, of selective outrage, and extoll Hindu sentiments, going back a thousand years. [Bulk WhatsApp messages](http://www.rediff.com/news/slide-show/slide-show-1-india-struggle-with-hate-on-whatsapp/20140813.htm%22%20%5Ct%20%22_blank) appealing to the [nationalist-cum-religious sentiments](http://www.hindustantimes.com/mumbai-news/two-booked-for-spreading-communal-hatred-via-whatsapp/story-IqfJ4CNrttXHtKDwK3b7KK.html%22%20%5Ct%20%22_blank) are circulated, resulting in sporadic incidents of violence.

Another group that primarily includes political parties like the Indian National Congress (INC) and some socialist and communist parties of India, as well as an array of liberal public intellectuals, journalists and historians known collectively and derisively as the Lutyens Club (power-wielding elite circles of Delhi) and pseudo-seculars, do not spare a second in raising a specter of “Hindu terrorism.” There is a deluge of op-eds declaring India as seething under a dictatorial regime of Prime Minister Narendra Modi who is hell-bent on making India intolerant and extremist. Every such incident becomes another mortar in their fast-depleting salvo of ammunition against Modi.

Unfortunately, the majority of Hindus find themselves aligned to the right. This includes a large number of traditional INC supporters and the people who hate Modi for his demonetization policy and lavish foreign trips. Even the supposed liberals from the upper-class Hindu strata of Jains (followers of Jainism), Brahmins, Rajputs and Sikhs find themselves leaning toward the right as they go back to the dark spaces of their homes from their public intellectual siestas.

#### Intellectual Dishonesty

The question arises: Why do such real, relevant and genuine concerns get sacrificed at the altar of political chicanery and intellectual dishonesty? Yes, it is a fact that religious extremism and communal hatred has increased manifold in India over the years. It is also a fact that among Hindus one observes a spike in intolerance or a contorted feeling of resurgence. This is a dangerous phenomenon for the harmonious socio-cultural fabric of a religiously diverse society like India. It must be stopped in its tracks if we do not want this nation to descend into anarchy and chaos.

For this, the intellectuals and the media need to show a strong spine, an ethical consciousness, and ask the right questions to set the right political discourse. The right narrative can be created only with quality scholarship on sociopolitical, cultural and religious dynamics of India, which, at the present time, our public intellectuals and the media world lack.

First and foremost, the intelligentsia must make sure that such occasions in the future are not reduced to Modi-bashing campaigns based on either personal hatred, genuine ideological disagreements or hidden political agendas. Such intellectual dishonesty does the greatest disservice to the cause of secularism. Under the patronage of the establishment, Marxist historians threw visionaries like [Muhammad Iqbal](https://www.thefamouspeople.com/profiles/muhammad-iqbal-3595.php%22%20%5Ct%20%22_blank) and Muhammad Ali Jinnah into the dustbin of history as bigots and communalists.

Although there is an absence of well-reasoned alternative views from the right, there is a general perception among Hindus that the brutal history of forced conversions, temple-demolitions, genocides and jizya (tax levied on non-Muslims, or dhimmis, in a state governed according to Sharia) have been swept under the carpet, and the glorious chapters of Hindu rulers like the Gupta Empire, the Vijayanagara Kingdom and the Maratha Empire have been played down. Similarly, one often comes across headlines like “Hindu kills Muslim” even if the reasons are purely non-religious and personal. On the other hand, when a non-Muslim is slain by a Muslim, even when the motivations are purely out of religious bigotry, liberal intellectuals in India hesitate before condemning it as a case of Islamism.

These sentiments are deeply entrenched among Hindus. Even if we discount the juggernaut of the Hindu right-wing propaganda machine, the fact remains that there is truth in such allegations. For some intellectuals, it is easy to reject love jihad as a figment of imagination or a political tool of [Sangh Pariwar](http://www.sanghparivar.org/%22%20%5Ct%20%22_blank) (a term used for all the Hindu right-wing organizations affiliated to RSS) but, for a large number of Hindus, it is a real threat. But left-liberal intellectuals and media outlets brush it aside as extremist propaganda, which upsets the common Hindus.

If the liberal forces continue to take it as a mockery, the people on the ground find themselves insulted and become further detached from the liberal forces. And when liberals are found defending a particular community and perpetrators (real or imagined), the vacuum is filled by Hindu extremists who immediately appeal to the wounded Hindu sentiments and leave no stone unturned in proving liberals to be hand-in-glove with Islamists. In this, they are assisted by their strong grassroots cadre and the technological edge of social media.

#### Deeply Entrenched

As a society, India must admit that religious extremism and hatred are deeply entrenched in its sociocultural body politic. The roots of religious intolerance are to be found in the collective subconsciousness, which is the product of historical evolution over the last 5,000 years. Any analysis bereft of this understanding of the history, twisted to fit political ends, will serve no purpose except of intellectuals losing credibility.

An objective and independent inquiry will show that religious extremism and intolerance are increasing in India, and it is not confined to just one Hindu community. While analyzing Hindu-Muslim communal tensions in India, any inquiry bereft of its historical background will not give a complete picture. Muslims ruled India for more than 1,000 years, from 712 AD through 1857. The common trend among left-leaning historians is to highlight the phases of communal harmony and bonhomie between the two communities and hide the instances of forced conversions, brutal mass slaughter of Hindus and abduction of Hindu women.

But North Indian folklore is full of such incidents. During the Raj, the existing differences between the two communities were aggravated by the British for political ends. The British policy of appeasement toward Muslim separatism and extremism widened the rift between Hindus and Muslims and ultimately led to the partition of India in 1947, followed by violent communal riots on both sides of the border in which thousands of Hindu and Muslim lives were lost.

Though a large number of Muslims stayed behind in India, relations with Hindus remained strained. The history of independent India is full of bloody communal riots like the most recent ones in [Gujarat](https://www.truthofgujarat.com/topics/2002-gujarat-riots/%22%20%5Ct%20%22_blank) (2001) and [Mujaffarnagar](http://www.bbc.com/news/world-asia-india-24172537%22%20%5Ct%20%22_blank) (2013). Further, due to the spread of Islamic extremist strands like Deobandism (Orthodox school of Islam in India), and the activities of Hindu right-wing elements, extremism increased among the Muslim community. After India’s independence, Hindu nationalism was also fanned and nurtured by Hindu right-wing organizations like the RSS.

But, of late, Hindu nationalism has given way to Hindu extremism, especially when it comes to cow vigilantism and love jihad. Within the Hindu community extremism is a relatively recent phenomenon, but among the left-liberal intellectuals, [politicians](http://indianexpress.com/article/india/india-news-india/ghulam-nabi-azad-compares-rss-to-isis-bjp-seeks-apology-from-congress/%22%20%5Ct%20%22_blank) and the journalists there is a tendency to equate it with jihadism and put Hindu nationalist organizations in the [same league as the Islamic State and al-Qaeda](https://www.dailyo.in/politics/irfan-habib-rss-isis-religious-intolerance/story/1/7144.html%22%20%5Ct%20%22_blank). This tendency largely seems to be emanating from the ideological hatred, superficial understanding of Hinduism and vested political interests. This upsets the Hindu community and accentuates the intercommunal tensions. But the fact remains that incidents of Hindu extremism are increasing, and this monster must be nipped in the bud.

These are, indeed, the defining moments for India’s secularism, and it seems that the edifice has started to crumble. The process has just begun and the axis has already shifted to the right. Even the doyen of secularism, the Indian National Congress, has been quiet on Afrazul’s murder, and its chief ministers are busy banning Padmawati, a controversial film that has angered the Hindus as it allegedly depicts a fanatic Muslim ruler of Delhi Allauding Khiljhi (1296 AD-1319 AD) in love with a fictitious Rajput Queen Padmawati. The Gujarat elections are too important to be sacrificed for a Bengali migrant laborer, and the future of the party hinges on the success of “[Yuvraj](https://timesofindia.indiatimes.com/india/dynastic-politics-rahul-goes-from-being-coy-to-comfortable/articleshow/60487253.cms%22%20%5Ct%20%22_blank)” — the scion of the Gandhi dynasty, Rahul Gandhi.

To a large extent, the shifting of the axis can be attributed to the minority appeasement of the INC, Hindutva politics and the menace of social media. But this blame game cannot protect us from descending into the cesspool of hateful majoritarianism if all this goes unabated. Addressing the genuine concerns of the majority community is the right thing to do, but if the process is accompanied by the brutal murders of Muslims, then we are not very far from sealing the fate of India’s supposedly robust democracy.

[culturalsurvival.org](https://www.culturalsurvival.org/publications/cultural-survival-quarterly/ethnic-and-religious-conflicts-india)

# Ethnic and Religious Conflicts in India

Author Varshney Ashutosh

19-24 minutes

India is characterized by more ethnic and religious groups than most other countries of the world. Aside from the much noted 2000-odd castes, there are eight "major" religions, 15-odd languages spoken in various dialects in 22 states and nine union territories, and a substantial number of tribes and sects.

Three ethnic or religious conflicts have stood out of late: two occurred in the states of "Assam and Punjab; another, the more widely known Hindu-Muslim conflict, continues to persist. The Assam problem is primarily ethnic, the Punjab problem is based on both religious and regional conflicts, while the Hindu-Muslim problem is predominantly religious.

ETHNIC CONFLICT IN ASSAM

Of the three conflicts mentioned, Assam has attracted the largest attention of late. Not since the 1947 partition of India have so many people been killed and uprooted as a result of ethnic or communal violence. By most available reports now, mob violence has claimed four thousand lives, rendered about 200,000 homeless, and forced a large number to leave the state for protection elsewhere. The immediate occasion of this bloodshed was the election held in February, though conflict and tension have been present for the last three years. In Assam, three culturally disparate groups have been in collision: the Assamese, the Bengalis (both of which have segments of Hindus and Muslims) and the tribals, which are localized communities.

Historical Pattern of Migration

Assam has had the highest rate of population growth in India since the beginning of this century. Migration into the state accounts for a substantial part of this growth. Most migrants came from Bengal, including what is now Bangladesh (known as East Bengal before the 1947 partition and East Pakistan from 1947-71). Bengali migrants were both Hindus and Muslims. Bengali Hindus started arriving after the British created tea plantations in the middle of the nineteenth century. Because of their educational advantage over Assamese, they were better suited to man the growing administrative and professional machinery.

Bengali Muslims on the other hand, were mainly peasants. They originated predominantly in East Bengal, a highly populated area with low agricultural productivity and a fragmented landholding pattern incapable of supporting large families. In contrast, Assam was less populated, many areas were unsettled, and there was less pressure on the land. Bengali peasants made large tracts of waste, flooded and forested land habitable and productive along the southern bank of the Brahmaputra River, an area that is also populated by indigenous tribal groups, especially the Lalung.

Overall Bengali dominance began to manifested itself in various ways. They held urban professions, their language was more developed and widely used in Assam, and their educational and even numerical superiority became more than evident. With the halting spread of education in the twentieth century, the Assamese middle class slowly emerged, and with the growth of the Assamese middle class, the seeds of what has been called "little nationalism" were sown in Assam.

Post-Independence Developments

After the partition of 1947 and the transfer of a very large Bengali Muslim district of Sylhet to East Pakistan, the Assamese middle class came to power for the first time in about a century. Through expanded educational programs and the use of Assamese as a language in the university, this newly acquired power, electorally buttressed, was used to consolidate the position of the Assamese middle class against Bengali dominance in administrative services and professions.

On the other hand, the various tribes on the lower ranges were less developed than both of these contending communities. Depending on the preponderance of one or the other in their local context, they felt pressured, even exploited, culturally, economically and politically by both groups.

Despite the existence of an international border, the migration from East Pakistan continued alongside migration from West Bengal. There is considerable dispute over the actual magnitude, but the most comprehensive estimate shows that between 1961 and 1971 the proportion of Assamese declined for the first time and that of Bengali speakers increased; between 1971 and 1981 itself, as many as 1.2 million migrants were added to a population of 14.6 million in 1971. Moreover, the number of registered voters increased dramatically from 6.5 million in 1972 to 8.7 million in 1979, a rise which cannot be totally attributed to the coming of voting age to the previously ineligible. This last discovery of the Election Commission was, in fact, the starting point of the present phase of the organized student movement supported by large sections of the Assamese middle class. The movement has wide-ranging demands including development of Assam and greater share of benefits from its rich national resources, including oil, for the Assamese. Why the issue of deportation of "illegal aliens" has come to be the focus of the movement needs some explanation.

Despite the general anti-Bengali sentiment, the expulsion of migrants that came from West Bengal - these migrants are predominantly Hindus - could not be brought about legally or politically. Interstate movement and residence are perfectly legal in India, and the Assamese economy and society, despite the antagonism, is inextricably linked with West Bengal.

On the other hand, the "post-1947 place of origin" of migrants from Bangladesh, largely Muslim, makes them "aliens" and their migration, for political purposes, can be called "illegal." The students thus found a ground for demanding their expulsion. Additionally, these Muslim migrants provided unstinted support to the Congress Party, now represented by Mrs. Gandhi, and the party in turn patronized them, so much so that local politicians of the Congress Party seem to have put aliens on the electoral rolls irrespective of whether or not they had Indian citizenship.

It is in this atmosphere that the elections were called. Mrs. Gandhi has been heavily criticized in India for her decision to call the elections. Two considerations seem to have gone into her decision: her need for an electoral victory due to the reverses her party had suffered in recent state elections, and her intention to negotiate with a new set of elected leaders who would possibly be more pliable than students on the issue of "aliens."

Large-scale violence and destruction of lives, property, bridges, and various other resources resulted. In addition to the predictable attacks on Bengalis in the towns, there were massacres in which first pro-election Boro tribals attacked Assamese villages at Gohpur and later, in the worst massacre witnessed in independent India, another tribe, the anti-poll Lalung, reportedly with Assamese support, killed scores of Bengali Muslims in Nellie.

The spread of urban conflict to villages seems to be partly a result of the emergence of support for leftist parties in the previous elections. The land reform-oriented agrarian program of the left and its attempt to create a base in the Muslim peasantry seems to have antagonized the Assamese landlords and wealthier peasantry. The most popular party of the left, the Communist Party Marxist (CPM), is in power in West Bengal and therefore is associated with Bengalis. Moreover, tribals seem to be involved in the struggle over land, attacking whichever community, Assamese or Bengali, in possession of most of the land in their respective local situations.

Hold over government, struggle for jobs, land scarcity, and population influx have thus intensified the historical differences between Assamese and Bengali into violent ethnic antagonisms in Assam. All of this took place in a context of acute underdevelopment of Assam and slow economic growth. The anti-aliens agitation is an expression, among other things, of the Assamese fear of becoming politically swamped by an ever larger Bengali presence in the state.

SIKH-HINDU CONFLICT IN PUNJAB

Starting in August 1980, mounting communal tension between Hindus and Sikhs in the state of Punjab led to violent clashes, in the last year in particular. Unlike Assam, Punjab is a state with the highest per capita income. It is the seat of the Green Revolution in India, whose biggest beneficiaries have been the rich Sikh peasants. In Punjab, Sikhs are a majority, Hindus, a minority.

Although religious symbols have been used for the mobilization of Sikhs and the secessionist slogan of Khalistan (a sovereign state of Sikhs) has been raised, the Sikh's charter of demands, drawn from the Anandpur Sahib Resolution, has strong economic and political components, unlike in Assam where the issue of aliens has sidelined economic demands.

The "major" religious demands by the Sikhs, including greater radio time for religious broadcasts over federally controlled radio, and a separate legislative act for Sikh religious shrines, were granted by New Delhi this past February. The major political demands are greater powers, including financial, for the states vis-a-vis New Delhi. A commission has been appointed to review these demands.

The economic demands include a greater share of river waters for irrigation and larger central investment in the industrial sector of Punjab. The territorial and the waters issues are the only unsettled points left. Other demands, minor at present, may later assume importance. The agitation continues unabated.

Classes, Religion and Green Revolution in Punjab

According to the 1971 census, Sikhs constituted 60.2% of Punjab's population and Hindus 37.5%. In the villages, the Sikh majority was even greater, constituting 69.4 % of the total rural population as opposed to 28.6% Hindus. In the urban areas, however, Hindus formed the majority, 66.4 % against 30.8 % Sikhs. Trade and services, rather than manufacturing, are the main sectors of urban economy in Punjab, and Hindu traders are dominant in both. The agricultural sector is dominated by the Sikh cultivating castes, known as jats.

Green revolution, based as it was on biochemical and mechanical inputs in agriculture and surplus production for market, has deeply linked trade with agriculture and made the latter dependent on the market. Both for buying modern inputs and selling surplus produce, the rich Sikh farmer has to go through the urban market, dominated by the Hindu trader. So long as the economic pie kept increasing, this incongruity did not much matter, but when prices of food grain and other crops stopped increasing, a clash of interests between the Sikh farmer and the Hindu trader was created.

Irrigation problems have worsened the situation. That Punjab has the best irrigated agriculture in the country is not enough for the rich peasant; while 1.4 million hectares in Punjab are canal-irrigated, two million hectares are dependent on tubewells. Due to its power and diesel needs, tubewell irrigation, is "three to nine times more costly" (India Today). The prosperity of the rich peasanty has thus slackened.

Other developments have occurred. Landlessness has increased from 17.3 percent in 1961 to 32.1 percent in 1971 and more later. The landless, mostly Untouchables and low caste Hindus and Sikhs, have also become politicized by the leftist Agricultural Labor Union. Sikhs in urban trades are neither economically nor numerically as dominant as the Hindus. And finally, the proportion of Sikhs in the Army has fallen from 35 percent to 20 percent.

Amid these mounting uncertainties, religion both divides and unites.

For the rich Sikh peasantry, faced with Hindu traders on the one hand and politicized labor on the other, religion performs a useful role. It unites the Sikh trader, who is also opposed to the Hindu trader, and the low caste Sikh laborer by dividing the agricultural labor into low caste Sikhs and low caste Hindus or Untouchables. Religious slogans appeal to the religiosity of the insecure small Sikh peasant and the unpoliticized Sikh laborer.

Power, Electoral Politics and Religion

It is unlikely that these links would have automatically led to political action without the mediation of political parties. This mediation did not simply reflect the emerging socio-economic divisions; it deepened them. The two main rural parties, the ruling Congress and the Akali Dal, a party dominated by the rich Sikh peasanty, have contributed much towards this deepening. Scholars have noted the schizophrenic character of Punjab politics. It has a "dual political system and a dual political area," one secular and the other religious and confined to Sikhs.

Since the exhaustion of the green revolution in Punjab, this is the first time that Akalis have not been in power. Although they had their first relatively stable rule from 1977 to 1980, Congress returned to power in 1980. The Akali elite, when in power, did not take up any of its present demands with New Delhi where its partner in electoral alliance, the Janata Party, ruled, but soon after the rival Congress returned, agitations were launched in support of the demands. The power implications seem reasonably clear: unless the enhanced economic power of the rich Sikh peasantry is matched with political power, peace will be difficult to maintain in Punjab. Either political power should compensate for the halt in its economic prosperity, or greater economic incentives must return as expressed in the river waters issue. Interests of the Akali political elites have thus coincided with those of the discontented peasantry. Religion is a particularly effective vehicle of political mobilization in such a situation, for that alone can prevent the increasing differentiation in the Sikh community from fragmented and weak political expression.

The ruling Congress has also played an electoral game. In an effort to weaken Akali Dal, it has, in the recent past, supported rabidly communal factions, including the present messiah Sant Bhindranwale, in the SGPC elections. The Congress is clearly not interested in settling the problem unless some political or electoral gains are likely, or unless the violence reaches explosive proportions.

THE HINDU-MUSLIM PROBLEM

Of all the religious and ethnic issues in contemporary India, history has cast its deepest shadow on Hindu-Muslim relations. The most critical contemporary phase of this history was the partition of 1947. A Muslim sovereign state of Pakistan was born amidst ghastly communal violence but almost as many Muslims as there were in the new constituted Pakistan, for various reasons, stayed in India. The partition did not solve the Hindu-Muslim problems; it caused the situation of the Muslims in India to deteriorate. They were blamed for the division of the country, their leadership had left and their power was further weakened by the removal of all Muslim-majority areas except Kashmir. Most of all, the conflict between India and Pakistan kept the roots of the communal tension perpetually alive and pushed Muslims into the unfortunate situation of defending their loyalty to India. Even 36 years after independence, the problem has not been overcome; Hindi-Muslim riots have in fact increased in the last few years.

It would be wrong, however, to conclude that the entire Muslim community in India has been under pressure. First, even though a minority (according to the 1971 census, 11.2 percent of the Indian population was Muslim as opposed to 61.2 percent caste Hindus), Muslims are in a majority in one state and constitute 13.5 to 24 percent population in five states. There are 39 districts in India in which they comprise from between 20 percent to 94 percent of the population. Many cultural differences exist among them. Only 45 percent speak Urdu and there are caste and sect divisions. As many as 73 percent live in villages; only 27 percent are urban. This is particularly important, after 1947 the Hindu-Muslim riots occurred for the most part, in urban centers. Most of these towns are modernizing, middle-size towns such as Aligarh, Moradabad, Meerut, Ranchi, Baroda, Hyderabad, Trivandrum. In the big and/or industrialized cities such as Bombay, Delhi, Ahmedabad, the communal fury, whenever it has erupted, has remained confined to the older parts of the city. Villages have remained largely undisturbed. Acute communal consciousness occurs largely in the middle class; its most fertile bases lie in the lower middle classes of growing middle size towns of sizeable Muslim populations.

Discrimination exists at other levels in other parts of the country. Decline in the status of Urdu in north India, widespread use of Hindu mythologies and symbols in school textbooks and continuing controversy over the foremost educational institution of Muslims, the Aligarh University, have indeed done much to provoke Muslim fears. Evidence that the police and administrative machinery in recent riots have sided with violent Hindus has further deepened widespread feelings of discrimination.

The emerging character of electoral politics have made matters worse. Communal Hindu parties apart, even the ruling Congress Party, professedly secular, has, since independence, had a dualistic character. The secular strain in the Congress was represented by Nehru but the communal strain was also present in the form of Patel, India's first Deputy Prime Minister, and was more pronounced at the provincial level. Nehru's stature kept the communal strain in check, but in the seventies, the party machinery has been taken over by the new generation of leaders, whose power and mobilization is based less on secularism or socio-economic programs and more on exploiting caste and religious divisions at the local levels.

If Nehru showed the integrative potential of democratic politics, the new leaders have shown its divisive potential. Muslims are the largest minority. Their votes can swing political fortunes. Parties have not hesitated to fan communal flames for electoral gains. The most recent example of this was the openly communal campaigning by the Congress in the violence-torn Assam elections. This new mode of realpolitik has been adopted by the new provincial and local leaders of most parties. The higher recent incidence of Hindu-Muslim riots has a good deal to do with this new phenomenon.

Conclusion

It is easier to outline these problems than suggest what should be done about them. In a situation of mutual distrust, almost any solution will generate controversy. Still, three solutions seem plausible. First, further decentralization of power to states would be of considerable help. This would partly address the problems in Punjab and Assam, both of which have complained of the gap between the resources they are entitled to and the resources they actually process. Second, a conscious attempt needs to be made to improve the educational attainment and economic level is easily demonstrated of Muslims whose socio-economic backwardness is easily demonstrated. The Muslim elite could do much in this respect. Special educational privileges are constitutionally sanctioned but they ought to be worked on. Modern liberal, as opposed to religious, education would be of great help. The government, for its part, could allay the apprehensions of the Muslim community by better representing Muslims in the police and paramilitary forces. Third, the secular leaders, to the extent that they exist, must make a sustained effort to reintroduce and deepen secular, socioeconomic concern in democratic politics. Partisan communal leaders and communal electoral mobilization, both within and outside the communal parties, but particularly within the ruling party, should be exposed. Aware leadership - political, social and intellectual - has to work for this political reconstruction. Definitive resolution of problems may be inordinately difficult but substantial alleviation is not.

[chauthiduniya.com](https://www.chauthiduniya.com/international/dharmik-kattarta-our-dharm.html)

# धार्मिक कट्टरता और धर्म

by चौथी दुनिया ब्यूरो

9-11 minutes

किसी सम्प्रदाय या विचार को आंख मूंदकर मानना और उसके लिए अति उत्साह से काम करना **कट्टरता** (fanaticism) कहलाता है। जॉर्ज सन्तायन के अनुसार, " जब लक्ष्य ही भूल गया हो तब अपने प्रयास को दोगुना बढ़ा देना" कट्टरपन है। कट्टर व्यक्ति बहुत कड़ाई से किसीइ विचार का पालन करता है तथा उससे भिन्न या विपरीत विचारों को सह नहीं सकता। अर्थात किसी भी धर्म, जाति, वर्ण,या कोई भी राजनितिक, धार्मिक, सामाजिक संगठन के लिए पूरी तरह समर्पित होकर कार्य करना, उससे मानना, किसी अन्य द्वारा किसी भी प्रकार की टिपण्णी न सुनना और अपने द्वारा माने जाने बाले उपरोक्त या किसी अन्य काणन को सर्वोपरि मानना ही कट्टरता है।

तार्किकता के पैरोकार, अक्सर धार्मिक कट्टरता के लिए धर्म को दोषी ठहराते हैं. क्या यह सोच सही है? इस प्रश्न का उत्तर जानने के लिए सबसे पहले हमें धार्मिक कट्टरता का अर्थ समझना होगा. सामान्य भाषा में हम यह कह सकते हैं कि कट्टर वह व्यक्ति है जिसने अपने दिमाग़ के खिड़की-दरवाजे बंद कर रखे हैं, जो किसी तर्क को सुनना या समझना ही नहीं चाहता. वह किसी नए विचार को ग्रहण करने के बजाय, पिटी-पिटाई लीक पर चलता रहता है. उसकी मान्यताओं-विश्वासों  का खंडन करने वाले चाहे जितने तर्क दें, वह अपनी बात पर अड़ा रहता है. स्पष्टत:, कट्टरता का संबंध व्यक्ति की मानसिकता से है जबकि धर्म का ताल्लुक आध्यात्मिकता व नैतिकता से है.

आस्था और कट्टरता के बीच विभेद करना भी आवश्यक है. आस्था वह है जिस पर व्यक्ति पूरी दृढ़ता से विश्वास करता है. दृढ़ विश्वास के बिना आस्था का कोई अर्थ नहीं है. यह प्रश्न उठना स्वाभाविक है कि आस्था और कट्टरता में क्या अंतर है. आस्था और कट्टरता में ज़मीन-आसमान का फर्क़ है. आस्था वह मान्यता है, जिस पर कोई व्यक्ति पूरी दृढ़ता से विश्वास करता है परंतु आस्था, तार्किकता पर आधारित होती है. आस्था से व्यक्ति की आध्यात्मिक उन्नति होती है, उसे आंतरिक शांति मिलती है. इसके विपरीत कट्टरता, अंधश्रद्धा पर आधारित होती है. कट्टरता से बौद्धिक विकास बाधित होता है.

आस्था व्यक्ति को आत्मविश्वास देती है. कट्टर व्यक्ति अपने नेता का बौद्धिक गुलाम होता है. अरबी में धार्मिक आस्था के लिए ईमान शब्द प्रयुक्त होता है, जिसका अर्थ है वह जो आदमी को सुरक्षा का भाव दे. कट्टर व्यक्ति स्वयं को असुरक्षित महसूस करता है और इसलिए वह कोई तर्क सुनना ही नहीं चाहता. जिस व्यक्ति में असुरक्षा का भाव और आत्मविश्वास की कमी जितनी अधिक होती है, वह व्यक्ति उतना ही कट्टर होता है. आस्थावान व्यक्ति, ज्ञानी व परिपक्व होता है जबकि कट्टर व्यक्ति, अज्ञानी व अपरिपक्व.

अगर मीडिया अपना काम ज़िम्मेदारी से करे-जैसी की उससे अपेक्षा की जाती है-तो दुनिया से धार्मिक कट्‌टरता लगभग ग़ायब हो जाएगी. मीडिया अक्सर लोगों को सही जानकारी देने की बजाए उन्हें भ्रमित करता है. धार्मिक कट्‌टरता फैलाने वाले निहित स्वार्थी तत्व होते हैं और दुर्भाग्यवश, मुख्यधारा का मीडिया इन्हीं निहित स्वार्थी तत्वों के नियंत्रण में है.

अख़बारों में छपने वाली सभी ख़बरें झूठी नहीं होतीं. आख़िरकार, मीडिया को भी अपनी निष्पक्षता का भ्रम बनाए रखना होता है. आमजन मीडिया की ख़बरों पर सहज विश्वास करते हैं. वह मीडिया के शहंशाहों की निष्पक्षता पर विश्वास करते हैं. पश्चिमी देशों, विशेषकर अमेरिका, में मीडिया और सरकार की मिलीभगत रहती है. वहां का मीडिया सरकार की नीतियों के अनुरूप नए-नए शब्द गढ़ता है जिनका उपयोग शनै:-शनै: पूरे विश्व का मीडिया करने लगता है. एशिया व अफ्रीका के देशों का मीडिया काफी हद तक अमेरिकी मीडिया का पिछलग्गू है और जिन धर्मों या समुदायों को अमेरिकी मीडिया अपना निशाना बनाता है वे ही पूरी दुनिया के मीडिया के निशाने पर आ जाते हैं. सन्‌ 1970 के दशक में, जब ईरान में क्रांति हुई थी, उस समय पश्चिमी मीडिया ने क्रांतिकारियों पर कट्‌टरपंथी का लेबिल चस्पा कर दिया था.

यह अमेरिकी मीडिया की एक कुटिल चाल थी जिसका उद्देश्य असली मुद्दों से जनता का ध्यान हटाना था. ईरान की क्रांति के पीछे कई जटिल कारण थे. शाह के विरूद्ध आम जनता में बहुत रोष था. शाह एक तानाशाह था, जिसके गुप्तचर एजेटों ने सैकड़ों नवयुवकों को शारीरिक यातना देकर मौत के घाट उतार दिया था. शाह, मध्यपूर्व में अमेरिकी साम्राज्यवाद का पिट्‌ठू था और इस कारण ईरानी जनता अमेरिका से घृणा करती थी. इन सब तथ्यों को छुपाने के लिए ऐसा प्रचारित किया गया मानो ईरान की क्रांति के पीछे केवल धार्मिक कट्‌टरता थी. बहुत कम अख़बारों और पत्रिकाओं ने ईरान की क्रांति के असली कारणों की समग्र विवेचना की. इसका सबक यही है कि हमें अख़बारों और टी. वी. चैनलों पर आंख मूंदकर यक़ीन नहीं करना चाहिए.

पुरातनपंथी पुरोहित वर्ग, चाहे वह हिन्दू हो, मुसलमान या ईसाई, कट्टरपंथी यूं ही नहीं होता. उसके सतही पागलपन के पीछे निश्चित उद्देश्य होते हैं. पाकिस्तान में आज जो कुछ हो रहा है उसके पीछे मुस्लिम पुरातनपंथी पुरोहित वर्ग की महत्वपूर्ण भूमिका है परंतु उसका उद्देश्य धार्मिक कम है राजनैतिक ज़्यादा. पुरोहित वर्ग, शरीयत क़ानून इसलिए लागू करवाना चाहता है क्योंकि वह जानता है कि इससे वह बहुत शक्तिशाली बन जाएगा. अगर धर्मनिरपेक्ष क़ानून लागू किए जाते हैं तो सत्ता, धर्मनिरपेक्षता व प्रजातंत्र में विश्वास रखने वाले उदारवादी तबके के हाथ में रहेगी और उलेमा सत्ताविहीन रहेंगे. इसके विपरीत, यदि शरीयत क़ानून लागू किए जाते हैं तो शासन में धर्मनिरपेक्षता व प्रजातंत्र में आस्था रखने वाले उदारवादी तबके की कोई भूमिका नहीं होगी और सत्ता का उपभोग उलेमा करेंगे. इस तरह मुस्लिम दुनिया का उदारवादी-धर्मनिरपेक्ष तबका बहुत दुविधा में है. यदि वह उलेमा का साथ देता है तो भी उसकी मुसीबतें बढ़ती हैं और यदि वह इन उलेमा का विरोध करता है तब भी वह मुसीबत में फंसता है. अगर वह उलेमा का साथ देता है तो इससे पुरोहित वर्ग की ताक़त बढ़ती है, जैसा कि पाकिस्तान में जिया-उल-हक के शासनकाल में हुआ था. और अगर वह इन तत्वों का विरोध करता है तो ईरान जैसी क्रांति का ख़तरा उत्पन्न हो जाता है. एशिया और अफ्रीका के मुस्लिम देशों के शासक वर्ग के लिए एक तऱफ कुआं है तो दूसरी तऱफ खाई. और उनके सामने इस मुसीबत से छुटकारा पाने का कोई आसान रास्ता नहीं है.

हमें धार्मिक कट्‌टरता के बढ़ते प्रभाव के पीछे के कारणों का गहराई से अध्ययन करना होगा. धार्मिक कट्‌टरता के लिए केवल धर्म को ज़िम्मेदार ठहरा देने से काम नहीं चलेगा. ऐसा करने से तो परंपरावादी पुरोहित वर्ग और कुटिल राजनेताओं की बन आएगी. धार्मिक कट्‌टरता का अंत करने के लिए हमें उसकी जड़ों पर प्रहार करना होगा.

**(लेखक मुंबई स्थित सेंटर फॉर स्टडी ऑफ सोसायटी एंड सेक्युलरिज्म के संयोजक हैं)**

# धार्मिक कट्टरता: कट्टरता घटी, संपन्नता बढ़ी - more secular the country more will be the economic development | Navbharat Times

2-3 minutes

**धर्म की तेज** होती जकड़बंदी वाले इस दौर में एक स्टडी रिपोर्ट ने नितांत नए निष्कर्ष के साथ सबका ध्यान खींचा है। अंतरराष्ट्रीय पत्रिका 'साइंस एडवांसेज' में पिछले दिनों छपी इस खास स्टडी रिपोर्ट का निष्कर्ष यह है कि जो समाज या देश जितना धर्मनिरपेक्ष होता है, वहां [आर्थिक विकास](https://navbharattimes.indiatimes.com/topics/%E0%A4%86%E0%A4%B0%E0%A5%8D%E0%A4%A5%E0%A4%BF%E0%A4%95-%E0%A4%B5%E0%A4%BF%E0%A4%95%E0%A4%BE%E0%A4%B8) की गति उतनी तेज होती है।

सौ अलग-अलग देशों में पिछली पूरी एक शताब्दी (1900 से 2000) के दौरान समाज में प्रचलित मूल्यों और वहां चली आर्थिक विकास प्रक्रिया के अध्ययन पर आधारित इस रिपोर्ट के मुताबिक यह मान्यता ठीक नहीं है कि आर्थिक विकास से [धर्मनिरपेक्षता](https://navbharattimes.indiatimes.com/topics/%E0%A4%A7%E0%A4%B0%E0%A5%8D%E0%A4%AE%E0%A4%A8%E0%A4%BF%E0%A4%B0%E0%A4%AA%E0%A5%87%E0%A4%95%E0%A5%8D%E0%A4%B7%E0%A4%A4%E0%A4%BE) जैसे मूल्य मजबूत होते हैं। वास्तव में प्रक्रिया इसके उलट चलती है। धर्मनिरपेक्षता जैसे मूल्य मजबूत होने पर समाज में संपन्नता आती है।

रिपोर्ट बताती है कि दोनों में प्रत्यक्ष कार्य-कारण संबंध तो नहीं मिले, लेकिन जैसे-जैसे समाज में सहिष्णुता आती है, वैसे-वैसे आर्थिक गतिविधियों में आबादी के ज्यादा से ज्यादा हिस्से की सहज सहभागिता बढ़ती है। यह सहिष्णुता धर्म तक सीमित नहीं है।

वैयक्तिक अधिकारों को मान्यता देने वाले मूल्यों के साथ भी यही बात है। जिन समाजों में समलैंगिक संबंध, महिला स्वतंत्रता, विवाह, तलाक आदि मसलों पर जितना उदार रुख प्रचलित होता है वहां आर्थिक विकास की प्रक्रिया भी उतनी ही सहज गति से आगे बढ़ती है।

इस अनूठी स्टडी में पाया गया कि धर्मनिरपेक्षता की मजबूती के साथ किसी देश में प्रति व्यक्ति जीडीपी में 10 वर्षों में 1000 डॉलर, 20 वर्षों में 2800 डॉलर तो 30 वर्षों में 5000 डॉलर इजाफा होता है। यह स्टडी उन सभी लोगों के लिए एक सबक है जो मानते हैं कि समाज में फैल रही खास धर्म या जाति की श्रेष्ठता की भावना का देश के विकास से कोई मतलब नहीं होता और ये दोनों साथ-साथ चल सकते हैं।

आज विश्व के एक बड़े हिस्से में इस्लाम का झंडा बुलंद करने के नाम पर जो खौफनाक अभियान चलाया जा रहा है, उसके खतरे सबके सामने हैं। ज्यादा खतरनाक बात यह है कि इसकी प्रतिक्रिया में अन्य धर्मों में भी अपनी श्रेष्ठता स्थापित करने की होड़ दिखने लगी है। यह होड़ जारी रही तो 20वीं सदी ने श्रेष्ठ और उदार मूल्यों के सहारे दुनिया को जो संपन्नता दी है, 21वीं सदी पूरी निर्ममता से उसे स्वाहा भी कर सकती है।