

DISCIPLINE



Important Issues of the Day

- **Judicial drift – Page No. 6, GS 2**
- **CPI base revision – Page No. 6, GS 3**
- **Religious disputes – Page No. 7, GS 2**
- **Have States gained – Text and Context**
- **Vande Mataram – Page No. 14, GS 1**
- **Corruption Perceptions Index – Prelims**

Have States gained from the 16th FC?

What have been the recommendations of the 16th Finance Commission? What taxes are shared between the Centre and the States? Why did the last Commission revise vertical devolution to 41%? What had industrialised States such as Maharashtra, Gujarat, Tamil Nadu, Karnataka and Telangana demanded?

EXPLAINER

Rangarajan. R

The story so far:

The 16th Finance Commission under the chairmanship of Dr. Arvind Panagariya has submitted its report for the period of 2026-31. The Central government has accepted its recommendations with respect to devolution of funds from Centre to States.

What were past recommendations? The Constitution in Article 270 provides for the scheme of distribution of net tax proceeds collected by the Central government between the Centre and the States. The taxes that are shared between the Centre and the States include corporation tax, personal income tax, Central Goods and Services Tax (GST), Centre's share of the Integrated Goods and Services Tax (IGST) etc. This division is based on the recommendation of the Finance Commission that is constituted every five years as per the terms of Article 280. This divisible pool, however, does not include cess and surcharge that are levied by the Centre. For the year, 2025-26, it is estimated that the divisible pool constitutes only around 81% of the gross tax revenue of the Centre after excluding cess and surcharge.

Till the 13th FC (2010-2015), the devolution involved specific transfers for Centrally Sponsored Schemes (CSS) with extensive conditionalities. The share of States in Central taxes (vertical devolution) was fixed at 32%. However, since the 14th FC (2015-2020), the specific transfers for CSS were discontinued and the vertical devolution was increased to 42%. It was revised down to 41% in the 15th FC (2020-2026) due to the reorganisation of Jammu and Kashmir into two Union Territories.

The criteria for distribution amongst the States (horizontal devolution) since the 13th FC is provided in Table 1. As can



FILE PHOTO

The share for States

Till the 13th FC (2010-2015), the devolution involved specific transfers for Centrally Sponsored Schemes (CSS) with extensive conditionalities

Table 1: Criteria for horizontal devolution amongst States

Criteria	13th FC 2010-15	14th FC 2015-20	15th FC 2020-26	16th FC 2026-31
Income distance	47.5	50	45	42.5
Population (1971)	25	17.5	-	-
Population (2011)	-	10	15	17.5
Area	10	15	15	10
Forests	-	7.5	10	10
Fiscal discipline	17.5	-	-	-
Demographic performance	-	-	12.5	10
Tax effort	-	-	2.5	-
State's contribution to GDP	-	-	-	10
Total	100	100	100	100



be observed, higher weightage has been given for equity (income gap) and needs (population and area) when compared to efficiency (forests, demographic performance and tax effort).

What were States' demands?

Firstly, as regards vertical devolution, 18 States had demanded that the States' share be increased from the current 41% to 50%. Few other States had demanded an increase of 45% to 48%. Many States had demanded the inclusion of cess and surcharge in the divisible pool as well as fixing a cap on cess and surcharge that could be levied by the Centre.

Secondly, as regards horizontal

devolution, many States had pitched for the continued dominance of equity parameters in the criteria. Equally, many States had recommended reducing the weight assigned to 'income distance' as a criterion. Industrialised States such as Maharashtra, Gujarat, Tamil Nadu, Karnataka and Telangana had recommended the inclusion of States' contribution to GDP among the horizontal devolution criteria.

What did the 16th FC recommend?

With respect to the demands regarding vertical devolution, the FC opined that under the present constitutional scheme, it is neither permissible nor desirable to

fix a cap on cess and surcharge or for their inclusion in the divisible pool. These instruments may also be needed to raise resources for the Union to meet any exigencies. Similarly, the FC recommended retaining the States' share in vertical devolution at its current level of 41% considering three main reasons – the States' share in total tax revenues of the country; that much of the spending of the Union in CSS is anyway ultimately routed to the States; and that the Union government needs increased funds for defence and infrastructure.

In its approach for horizontal devolution, the FC was guided by two principles. First, changes to each State's share in the portion of divisible pool should be gradual. Second, due recognition should be given to efficiency and especially the States' contributions to growth. Accordingly, a new criterion of State's contribution to GDP has been added. The weightage to this new criterion as well as other criteria has been assigned in such a way that it spells a directional change without causing a drastic shift in States' shares.

Considering all the above factors, the share of southern and western States has marginally increased while the share of big north and central States has marginally decreased. Hence, one may conclude that it is status quo as far as vertical and horizontal devolution is concerned with a directional change towards providing due recognition for efficiency. Additionally, the following observations of the FC should be borne in mind. The Centre should progressively reduce raising revenues through cess and surcharge. The States should make their subsidies efficient and targeted, actively pursue reforms in the power sector, and rein in the levels of their fiscal deficit and debt. The Centre and States should undertake various public sector enterprise reforms.

Rangarajan. R is a former IAS officer and author of 'Courseware on Polity Simplified.' He trains at Officers IAS academy. Views expressed are personal.

THE GIST

▼ The Constitution in Article 270 provides for the scheme of distribution of net tax proceeds collected by the Central government between the Centre and the States.

▼ With respect to the demands regarding vertical devolution, the FC opined that under the present constitutional scheme, it is neither permissible nor desirable to fix a cap on cess and surcharge or for their inclusion in the divisible pool.

▼ In its approach for horizontal devolution, the FC was guided by two principles. First, changes to each State's share in the portion of divisible pool should be gradual. Second, due recognition should be given to efficiency and especially the States' contributions to growth.

- **The Constitution in Article 270 provides for the scheme of distribution of net tax proceeds collected by the Central government between the Centre and the States.**
- **With respect to the demands regarding vertical devolution, the FC opined that under the present constitutional scheme, it is neither permissible nor desirable to fix a cap on cess and surcharge or for their inclusion in the divisible pool.**
- **In its approach for horizontal devolution, the FC was guided by two principles.**
- **First, changes to each State's share in the portion of divisible pool should be gradual.**
- **Second, due recognition should be given to efficiency and especially the States' contributions to growth.**

The share for States

Till the 13th FC (2010-2015), the devolution involved specific transfers for Centrally Sponsored Schemes (CSS) with extensive conditionalities

Table 1: Criteria for horizontal devolution amongst States

Criteria	13th FC 2010-15	14th FC 2015-20	15th FC 2020-26	16th FC 2026-31
Income distance	47.5	50	45	42.5
Population (1971)	25	17.5	-	
Population (2011)	-	10	15	17.5
Area	10	15	15	10
Forests	-	7.5	10	10
Fiscal discipline	17.5	-	-	
Demographic performance	-	-	12.5	10
Tax effort	-	-	2.5	
State's contribution to GDP				10
Total	100	100	100	100



With reference to the Fourteenth Finance Commission, which of the following statements is/are correct?

- 1. It has increased the share of States in the central divisible pool from 32 percent to 42 percent.**
- 2. It has made recommendations concerning sector-specific grants.**

Select the correct answer using the code given below.

- (a) 1 only**
- (b) 2 only**
- (c) Both 1 and 2**
- (d) Neither 1 nor 2**

Mains Question

Examine the criteria used by the recent Finance Commissions for horizontal devolution among states. What are the associated challenges?

हाल के वित्त आयोगों द्वारा राज्यों के बीच क्षैतिज कर-वितरण हेतु अपनाए गए मानदंडों का परीक्षण कीजिए। इससे जुड़ी चुनौतियाँ क्या हैं?

Vande Mataram to be played before National Anthem: govt.

Fresh set of guidelines issued to States and government bodies but no formal statement made by the Centre; it says when the National Song is sung or played, the audience shall stand to attention

The Hindu Bureau
NEW DELHI

The Union government has said in a set of instructions to the States and government bodies that the National Song, *Vande Mataram*, should be sung or played before the National Anthem, *Jana Gana Mana*, when both the songs are played at an event.

The fresh set of guidelines were uploaded on the Union Home Ministry website on February 6, but no formal announcement or a statement was issued.

It states that whenever the official version of the National Song, around 3.1 minutes long, is sung or played, the audience shall stand to attention. "However, when in the course of a newsreel or documentary, the National Song is played as a part of the film, it is not expected of the audience to stand as standing is bound to interrupt the exhibition of the film and would create disorder and confusion rather than add to the dignity of the National Song," it said.

The Ministry said the instructions were being issued for general informa-

Setting the tone

Key guidelines for singing and playing the National Song

- *Vande Mataram* should be sung or played before the National Anthem when both are performed at an event

- The audience must stand at attention when the official version, around 3 minutes 10 seconds long, is sung or played

- Standing is not required if it is played as part of a newsreel or documentary



Proud moment: A tableau celebrating 150 years of *Vande Mataram* during the Republic Day Parade. PTI

- The official version shall be accompanied by mass singing during unfurling of the National Flag, cultural occasions, or ceremonial functions other than parades

tion and guidance on the official version of the song, the occasions on which it is to be played or sung, and about the need for paying respect to the song by observance of proper decorum on such occasions.

It said that *Vande Mataram*, written by Bankim Chandra Chatterjee, is known as the "National Song, which is to be sung on arrival and departure of the President at formal state functions and other functions organised by the government, immediately before and after the President addresses the nation

over All India Radio and television, on arrival and departure of the Governor or Lieutenant-Governor at formal state functions, when the National Flag is brought on parade, any other occasion for which special orders are issued by the Government of India".

When a band plays it

"When the National Song is played by a band, the song will be preceded by a roll of drums to assist the audience to know that it is going to be played, unless there is some other specific indication that the Na-

tional Song is about to be played," the Ministry said.

The official version shall be played accompanied by mass singing on the unfurling of the National Flag, on cultural occasions or ceremonial functions other than parades. The mass singing could be arranged by having a choir of adequate size, suitably stationed, which would be trained to coordinate its singing with the band.

It may be sung on occasions which, though not strictly ceremonial, are nevertheless invested with significance because of the presence of Ministers and others, the Ministry said.

"It is not possible to give an exhaustive list of occasions on which the singing (as distinct from playing) of official version of the National Song can be permitted. But there is no objection to the singing of the National Song accompanied by mass singing so long as it is done with due respect as a salutation to the motherland and proper decorum is maintained," the Ministry said.

"In all schools, the day's work may begin with community singing of the National Song..." it added.

- **The Union Government has issued fresh guidelines mandating the singing of all six stanzas of 'Vande Mataram' at official functions. The order coincides with the 150th anniversary of the song's creation.**
- **The Ministry of Home Affairs (MHA) has notified the official version of 'Vande Mataram', requiring that all six stanzas of the original composition by Bankim Chandra Chatterjee be sung at specified government functions.**
- **The directive formalises the complete rendition of the national song and prescribes the protocol for its performance.**
- **Ministry Involved: Ministry of Home Affairs (MHA), Government of India**

Official Version & Duration:

- **All six stanzas must be sung as the official version.**
- **Total duration prescribed: 3 minutes and 10 seconds.**

Mandatory Occasions at the Union Level:

- **To be played at civil investiture ceremonies and official state functions.**
- **To be played upon arrival and departure of the President of India.**
- **Before and after the President's address broadcast on Akashwani and Doordarshan.**
- **To be played during arrival and departure of Governors or Lieutenant Governors at official state functions.**
- **Mandatory group singing at cultural events and occasions involving flag hoisting.**
- **Morning assemblies of all schools must incorporate group singing.**

Setting the tone

Key guidelines for singing and playing the National Song

- *Vande Mataram* should be sung or played before the National Anthem when both are performed at an event

- The audience must stand at attention when the official version, around 3 minutes 10 seconds long, is sung or played

- Standing is not required if it is played as part of a newsreel or documentary



Proud moment: A tableau celebrating 150 years of *Vande Mataram* during the Republic Day Parade. PTI

- The official version shall be accompanied by mass singing during unfurling of the National Flag, cultural occasions, or ceremonial functions other than parades

Protocols During Rendition:

- **Audience must stand in attention posture when the song is played.**
- **Exception: Not mandatory in cinema halls when played as part of films or newsreels.**
- **A drumroll (mridang/trumpet) to precede the song.**
- **In marching drills, seven preparatory steps before commencement.**

Informal Events:

- **May be sung at informal functions attended by ministers.**
- **The Union government has said in a set of instructions to the States and government bodies that the National Song, Vande Mataram, should be sung or played before the National Anthem, Jana Gana Mana, when both the songs are played at an event.**

The Partition of Bengal made by Lord Curzon in 1905 lasted until

- (a) the First World War when Indian troops were needed by the British and the partition was ended.**
- (b) King George V abrogated Curzon's Act at the Royal Durbar in Delhi in 1911.**
- (c) Gandhiji launched his Civil Disobedience Movement.**
- (d) the Partition of India in 1947 when East Bengal became East Pakistan.**

The 1929 Session of Indian National Congress is of significance in the history of the Freedom Movement because the

- (a) attainment of Self-Government was declared as the objective of the Congress**
- (b) attainment of Poorna Swaraj was adopted as the goal of the Congress**
- (c) Non-Cooperation Movement was launched**
- (d) decision to participate in the Round Table Conference in London was taken**

The staple commodities of export by the English East India Company from Bengal in the middle of the 18th century were:

- (a) Raw cotton, oil-seeds and opium**
- (b) Sugar, salt, zinc and lead**
- (c) Copper, silver, gold, spices and tea**
- (d) Cotton, silk, saltpetre and opium**

Mains Question

How did the Swadeshi Movement mark a turning point in the Indian national movement?

स्वदेशी आंदोलन ने भारतीय राष्ट्रीय आंदोलन में किस प्रकार एक महत्वपूर्ण मोड़ प्रस्तुत किया?

Corruption Perceptions Index



- **India has climbed to the 91st position on the global Corruption Perceptions Index (CPI), reflecting a slight improvement from its 96th rank in the previous year.**
- **Despite this five-place rise, India's score of 39 remains below the global average, highlighting that corruption is still viewed as a deep-rooted structural challenge.**
- **The Corruption Perceptions Index (CPI), released annually by Transparency International, ranks 182 countries and territories based on perceived levels of public sector corruption.**
- **It uses a scale from 0 (highly corrupt) to 100 (very clean). India's rank of 91st with a score of 39 indicates that while digitalization and reforms have prevented a decline, the country still struggles with bureaucratic opacity and weak enforcement.**

- **The index evaluated 182 countries based on perceived public sector corruption, using a scale from zero (highly corrupt) to 100 (very clean).**
- **Denmark, maintaining its eight-year streak, tops the CPI 2025 with the highest score of 89, followed closely by Finland (88) and Singapore (84).**
- **South Sudan and Somalia, both scoring 9, tied at rank 181.**
- **Venezuela ranks slightly higher at 180 with a score of 10, placing these three nations at the bottom of the index.**

Mains Question

Examine the role of transparency and digital governance in reducing corruption perception in India.

भारत में भ्रष्टाचार की धारणा को कम करने में पारदर्शिता एवं डिजिटल शासन की भूमिका का परीक्षण कीजिए।

The CPI base revision exercise measures a slice of life

Inflation, one of the most closely watched macroeconomic indicators, is something that most people feel in daily life in their routine household expenses. The Consumer Price Index (CPI) captures this reality by tracking the prices of goods and services that households regularly consume, turning everyday experiences into an official measure of inflation. For the common man, the CPI is like a quiet mirror of daily life capturing, inter alia, the changing cost of basic needs such as food on the plate, rent for the roof over the head, and fuel for the journey to work.

More than a simple number

Though it appears as a simple number, it speaks for households, guiding income and social security adjustments so that life's essentials remain within reach. CPI-based inflation is also the primary indicator for the Reserve Bank of India to help guide it in decisions such as interest rates and inflation control. Therefore, when the CPI reflects reality, policies respond better to what people are truly experiencing.

Inflation is not just about prices going up. It is about how these price changes affect household budgets. That is why making sure that the index reflects current consumption patterns is just as important as tracking the prices themselves. This is the context in which India's ongoing CPI base update from the year 2012 to 2024 must be seen.

Since the last base revision, the economy has changed significantly, urbanisation has grown, services have expanded, digital platforms have changed buying habits, and household spending has diversified.

The CPI 2024 series has, therefore, been updated using the latest Household Consumption Expenditure Survey of 2023-24. As people's preferences and expenses changed over time, the importance (weightage) given to different goods and services in the CPI has also been adjusted.



Saurabh Garg

is Secretary, Ministry of Statistics and Programme Implementation, Government of India

It will better trace how prices shape daily life and policy decisions

Items on which households now spend more have been given greater weight, with less weight for those that account for a smaller share of spending. This ensures that the CPI measures price changes that really affect household budgets. The consumption basket has also been updated to reflect emerging trends, such as growing spending on services, driven by rising incomes and changing lifestyles.

Updating the way that the CPI is calculated is just as important as updating what it measures. The revised CPI is more closely aligned with international standards while retaining features specific to India. This makes it easier to compare India's inflation with other countries. From the perspective of households, this matters because it helps policymakers understand how price changes in India fit into the global picture, without losing sight of what affects daily life.

Data collection for the CPI has been upgraded to keep pace with how people shop and spend. While traditional market surveys still track prices, particularly of food and other essentials, the 2024 framework has introduced that captures online prices for items such as telecom services, airfares, and certain other services.

A wider database

The adoption of computer-assisted price collection in the new series has reduced manual errors and allowed real-time checks, improving the quality and timeliness of price data. Quality and timeliness of the CPI matter because these shape decisions that touch everyday life, such as how high loans are, how much savings earn, and how rising prices influence household budgets.

In the new base year, the CPI draws more on official data from government sources, railfares, postal charges, fuel prices, and items sold through the public distribution system. This means that these numbers are captured with greater precision by mitigating the chances of

errors and biases that can occur in market surveys. This integration of survey data, administrative records and digital price sources represents a marked improvement over earlier practices and provides a more reliable picture of how prices are changing.

The massive institutional effort behind a base revision exercise of this scale is also worth noting. It involves coordination across field offices, statistical divisions and national and international expert bodies.

The process involves extensive scrutiny of methodology, testing of alternatives and consultation with economists and domain specialists. The Ministry of Statistics and Programme Implementation (MoSPI) has engaged with expert groups, international organisations and stakeholders to ensure that the changes are transparent, easy to understand and methodologically sound.

Even with updates to the basket, weights, and data sources, the CPI keeps its core purpose, capturing how prices change from a household's point of view. This continuity matters because it lets us compare prices over time. In other words, the index is being improved without losing the connection to everyday life, so that it remains a reliable guide for policymakers.

In context

The CPI reminds us that behind every statistic lies the lived experience of millions, and that numbers, ultimately, are about people. It quietly traces how prices shape daily life and inform policy decisions. Through the ongoing base revision exercise, MoSPI has ensured that the CPI continues to be accurate, up-to-date, and consistent over time, so that it remains not just a number, but a true mirror capturing the realities faced across the country.

The views expressed are personal

- **The Consumer Price Index (CPI) captures this reality by tracking the prices of goods and services that households regularly consume, turning everyday experiences into an official measure of inflation.**
- **For the common man, the CPI is like a quiet mirror of daily life capturing, inter alia, the changing cost of basic needs such as food on the plate, rent for the roof over the head, and fuel for the journey to work.**
- **CPI-based inflation is also the primary indicator for the Reserve Bank of India to help guide it in decisions such as interest rates and inflation control.**
- **India's ongoing CPI base updation from the year 2012 to 2024 must be seen.**

- **The CPI 2024 series has, therefore, been updated using the latest Household Consumption Expenditure Survey of 2023-24.**
- **As people's preferences and expenses changed over time, the importance (weightage) given to different goods and services in the CPI has also been adjusted.**
- **Items on which households now spend more have been given greater weight, with less weight for those that account for a smaller share of spending.**
- **This ensures that the CPI measures price changes that really affect household budgets.**
- **The consumption basket has also been updated to reflect emerging trends, such as growing spending on services, driven by rising incomes and changing lifestyles.**

With reference to inflation in India, which of the following statements is correct?

- (a) Controlling the inflation in India is the responsibility of the Government of India only**
- (b) The Reserve Bank of India has no role in controlling the inflation**
- (c) Decreased money circulation helps in controlling the inflation**
- (d) Increased money circulation helps in controlling the inflation**

Consider the following statements:

- 1. Inflation benefits the debtors.**
- 2. Inflation benefits the bondholders.**

Which of the statements given above is/are correct?

(a) 1 only

(b) 2 only

(c) Both 1 and 2

(d) Neither 1 nor 2

Judicial drift in the Special Intensive Revision hearings

In the first week of February 2026, in an unprecedented event, the Chief Minister of West Bengal, Mamata Banerjee, appeared before the Supreme Court of India in the ongoing hearings around the conduct of the Special Intensive Revision (SIR) of the electoral rolls, which has been taking place in multiple States across India.

The Chief Minister's arguments were focused on certain procedural infirmities that were causing hardship to the residents of her State. Her intervention led to the Court passing a slew of directions on February 9, ostensibly seeking to mitigate some of these hardships. However, in the course of the hearing, the Court also made a statement: that no impediment to the SIR would be allowed across any of the States.

Core constitutional challenge not decided

This statement is baffling, because in making it, the Court appears to have pre-judged the most fundamental issue before it – an issue that goes to the heart of the Court's own role as the primary organ of constitutional adjudication. Challenges to the SIR were first filed before the Court in July, when it was announced for the State of Bihar.

Among other things, these petitions questioned the constitutionality of the SIR itself. Months have passed, with SIRs announced in multiple States, and the challenges have multiplied. The Bihar election has come and gone (November 2025), with the Bihar SIR effectively having become a fait accompli. The Court has held multiple hearings, where it has, in effect, played the role of an administrator, passing directions on issues such as whether or not the Aadhaar card can be used as an identification document. However, the core constitutional challenge has not been decided, and as the Court's observations now show, the fait accompli seems to have become permanently enshrined, with any future judgment serving only to act as a retrospective validation of existing facts on the ground.

It is worth remembering that in a constitutional democracy, the Court's primary role is to ensure that other state organs comply with the Constitution, and not to transform itself into an administrator. However, the Court's conduct in the SIR case is not new: while the constitutionality of the Aadhaar programme was challenged in 2012, it was only in 2018 that a final judgment was passed, by which time Aadhaar



Gautam Bhatia

is a Delhi-based lawyer

The top court's conduct in the SIR case sees it moving away from its role as a constitutional court and adopting the role of administrator

had effectively become a fait accompli, too big to be undone. In the intervening six years, the Court had passed various orders about where and how Aadhaar could be used or demanded, but had not touched the constitutional challenge before it. The repetition of this pattern in the SIR case reveals a normalisation of the Court moving away from its role as a constitutional court, and adopting the role of the administrator. This is unfortunate.

There are significant issues

Indeed, the SIR process has raised certain significant constitutional issues. Many of these issues turned upon the question of power: while the Representation of the People Act (India's umbrella election law) authorises the Election Commission of India (ECI) to conduct a special revision for "any constituency or any part of a constituency", and for reasons to be recorded, there is a fundamental question about whether this very specific power is also a carte blanche authorisation to conduct State and nation-wide SIRs. The wording of the section seems to imply that its purpose is a targeted and focused exercise meant to correct for distortions that might creep in in certain specific places. By contrast, the present SIRs are dragnet, large-scale revisions of the rolls that, in effect, turn them into citizenship determining exercises. Added to this is the fact that electoral rolls already exist. Thus the ongoing SIRs amount to an exercise where the entire populations of States are called upon to freshly establish their citizenship and their right to vote, without any pre-existing cause for suspicion. The constitutional question then turns upon whether the ECI can simply operate on this mass presumption of non-citizenship, and force people to prove their rights from scratch.

In 1995, in *Lal Babu Hussein and Others vs Electoral Registration Officer and Others*, the Court had held that it could not. There again, the ECI had sought to effect large-scale removal of names from the voter rolls, acting on the suspicion that in certain constituencies there were many non-voters on the rolls. The Court struck down this exercise, and in the directions that it passed, made it clear that notices for removal from the rolls would have to be directed at specific individuals, and also a disclosure of the reason for suspicion that the individual in question was not a citizen of India.

As noted above, the present SIRs completely

invert that basic process. Instead of issuing notices to specific people that it reasonably suspects are non-voters, the ECI now requires everyone to come and prove that they are voters.

It is crucial to note that multiple reports have come in from various States about arbitrary deletions and of individuals having to run from pillar to post to prove that their citizenship does not exist in a vacuum. They are the product of this fundamental inversion of the state-citizen relationship. The other troubling impact of the SIR exercise is that the wholesale revision of voter rolls has brought into play the notorious Form 7, which allows any person to "object" to the inclusion of any other person in the electoral roll. There have already been widespread reports about the misuse of Form 7 to have people struck off the rolls, en masse, from multiple States.

An accentuation of disparities

Finally – and this was something highlighted by the West Bengal Chief Minister as well – in a country with vast material inequalities, and disparities in access to the State, documentation requirements operate asymmetrically, and, in particular, impact the vulnerable and the marginalised (people at the intersection of the axes of caste, poverty and gender). Indian Courts have long articulated an equality jurisprudence that is cognisant of material and socio-political discrimination: a process that accentuates, rather than mitigates, these disparities, violates basic constitutional principles.

It should be obvious that these are not mere "administrative" glitches that can be corrected by administrative tweaks, in the manner in which the Court has been doing for the past eight months. Rather, the specific problems of voter deletions and disenfranchisement that are being brought to the Court on a regular basis are symptoms. They are downstream from the actual issue, which is the manner in which the ongoing SIRs invert the relationship between the state and the individual, and leave the latter effectively at the mercy of the former. This is a question that goes to the heart of the constitutional order. It cannot be remedied through a mere administrative fix. Rather, it must be addressed from the perspective of a constitutional framework that genuinely affirms the dignity and participatory rights of every individual, refusing to reduce persons to mere cogs in the machine of state and administrative efficiency.

- **Among other things, these petitions questioned the constitutionality of the SIR itself. Months have passed, with SIRs announced in multiple States, and the challenges have multiplied.**
- **It is worth remembering that in a constitutional democracy, the Court's primary role is to ensure that other state organs comply with the Constitution, and not to transform itself into an administrator.**
- **However, the Court's conduct in the SIR case is not new: while the constitutionality of the Aadhaar programme was challenged in 2012, it was only in 2018 that a final judgment was passed, by which time Aadhaar had effectively become a fait accompli, too big to be undone.**
- **In the intervening six years, the Court had passed various orders about where and how Aadhaar could be used or demanded, but had not touched the constitutional challenge before it.**

- **the ongoing SIRs amount to an exercise where the entire populations of States are called upon to freshly establish their citizenship and their right to vote, without any pre-existing cause for suspicion.**
- **The constitutional question then turns upon whether the ECI can simply operate on this mass presumption of non-citizenship, and force people to prove their rights from scratch.**
- **In 1995, in Lal Babu Hussein and Others vs Electoral Registration Officer and Others, the Court had held that it could not. There again, the ECI had sought to effect large-scale removal of names from the voter rolls, acting on the suspicion that in certain constituencies there were many non-voters on the rolls.**
- **Finally — and this was something highlighted by the West Bengal Chief Minister as well — in a country with vast material inequalities, and disparities in access to the State, documentation requirements operate asymmetrically, and, in particular, impact the vulnerable and the marginalised (people at the intersection of the axes of caste, poverty and gender).**

The Constitution enters the sanctum

Page No. 7, GS 2

Two recent judgments of the Madras High Court – one concerning the Thiruparankundram Deepathoon and the other relating to the rights of the Thenkalai sect to recite hymns at the Kanchipuram Varadaraja Perumal temple – have brought to the fore the role of the judiciary in adjudicating religious disputes. That these matters have reached the High Court is revealing on multiple levels. First, it tells us that courts have a constitutional role in deciding religious disputes. Second, it demolishes the argument that temples are private spaces where the court or the state cannot intervene. Given the growing number of such cases, the law around religion has taken centre stage like never before.

Shift from civil rights disputes

Over a hundred years ago, it was civil courts that dealt with temple disputes. In a case pertaining to entry into the Kamudhi temple in Ramanathapuram, pitched battles around civil rights to enter temple premises were fought all the way up to the Privy Council in London. In *Sankaralinga Nadan and Ors vs Raja Rajeswara Dorai and Ors* (1908), the Privy Council was called upon to decide whether the Nadar community had a right to enter the Kamudhi temple. In the pre-constitutional era, such cases around temple entry and right to co-worship were primarily regarded as disputes concerning civil rights.

In 1927, the Madras Presidency government enacted the Madras Hindu Religious Endowments Act to govern temples and their endowments. A slew of legislative activity followed in the next two decades, which enabled setting up of local temple committees and the auditing of temple funds which enshrined the supervisory role of the Presidency government.

All this changed when the Constitution was adopted in 1950, which introduced fundamental rights to practise religion. The



Manuraj Shunmugasundaram

DMK spokesperson and advocate practising before the Madras High Court



Swetha Sethubaskaran

Advocate practising before the Madras High Court

The growing number of religious disputes before constitutional courts reflects the role of the judiciary in ensuring that religious practices do not undermine constitutional principles

freedom of worship rights in Articles 25 and 26 to worship were made applicable to individuals as well as religious denominations. However, this freedom was tempered with the requirement that rights to practise or profess religion would be subject to public order, health, and morality. This allowed the state to further regulate worship when it offended public conscience or morality.

This period ushered in a critical shift in judicial thinking. From the earlier view that these matters were civil rights disputes, the courts began looking at them from the vantage of constitutional directives. By doing so, the judiciary asserted the rights of the individual to equality and religious freedom subject to public interest restrictions. This led to the blossoming of jurisprudence around temple entry, religious freedoms, and equality in the appointment of priests. It is now a matter of debate in constitutional courts as to if and how these rights should be limited.

Nevertheless, the southern States, which belonged to the erstwhile Madras Presidency, must be credited for bringing in this jurisprudence. It started with these States enacting legislation under the Hindu Religious and Charitable Endowments Act for better temple governance. These legislation and regulations, consequently, invited judicial oversight, as writ courts were called to adjudicate upon whether State intervention respected the rights of the religious denominations while safeguarding the constitutional rights of others. This led to the development of temple-related jurisprudence over the last 70 years.

The test used by courts

In developing this jurisprudence, courts have undertaken an inquiry into whether religious practices conflict with constitutional principles. For example, where there is a restriction of the entry of certain people or where a customary practice is in conflict

with fundamental rights, such matters can be brought before constitutional courts. The constitutional court then undertakes the task of finding out whether such custom or practice is protected by the essential religious practice test. A creation of the Supreme Court, this test is to determine whether a particular custom or practice is essentially integral to the religion. Those not essentially religious were, interestingly, deemed to be “secular” and open to judicial guidance. Therefore, if a practice fails this test, then the court typically proceeds to issue directions in consonance with settled constitutional principles.

Despite criticism regarding its inconsistent interpretation in subsequent judgments, the courts have continued to use this test to bring a measure of objectivity to decisions by focusing on the core tenets of the religion itself. In *Indian Young Lawyers Association and Ors vs State of Kerala* (2018) (Sabarimala temple case), this approach underwent a significant consolidation when the Supreme Court held that even those practices considered essential to the religion cannot be shielded from judicial scrutiny if they are inconsistent with constitutional morality. Therefore, the law of the land is that religious freedoms are subject to constitutional morality, which in turn is founded on the principles of justice, liberty, equality and fraternity.

The growing number of religious disputes before constitutional courts reflects not only ideological polarisation within and across faiths, but also the enduring role of the judiciary in ensuring that religious practices do not undermine constitutional principles. Judicial review of religious disputes, therefore, cannot be seen as an aberration but a continuation of a long-standing constitutional engagement – one that seeks to harmonise faith with the foundational principles of the Constitution.

- **First, it tells us that courts have a constitutional role in deciding religious disputes.**
- **Second, it demolishes the argument that temples are private spaces where the court or the state cannot intervene.**
- **Given the growing number of such cases, the law around religion has taken centre stage like never before.**
- **All this changed when the Constitution was adopted in 1950, which introduced fundamental rights to practise religion.**
- **The freedom of worship rights in Articles 25 and 26 to worship were made applicable to individuals as well as religious denominations.**

- **The constitutional court then undertakes the task of finding out whether such custom or practice is protected by the essential religious practice test.**
- **A creation of the Supreme Court, this test is to determine whether a particular custom or practice is essentially integral to the religion.**
- **Those not essentially religious were, interestingly, deemed to be “secular” and open to judicial guidance. Therefore, if a practice fails this test, then the court typically proceeds to issue directions in consonance with settled constitutional principles.**
- **In Indian Young Lawyers Association and Ors vs State of Kerala (2018) (Sabarimala temple case), this approach underwent a significant consolidation when the Supreme Court held that even those practices considered essential to the religion cannot be shielded from judicial scrutiny if they are inconsistent with constitutional morality.**

Thank You!

