Indian Nationalism
Indian Nationalism

Question

• Q. What is nationalism and how it different from different from patriotism.
Patriotism

- It is love for the land that is fatherland or motherland (place of birth).

Nationalism

- Nationalism is feeling of oneness with all the people living on the land.
- Thus, fraternity is the ideal value of Nationalism. (According to Ambedkar) Nationalism is not possible without the feeling of fraternity.
Theories of Nationalism

1. Liberal Theory
2. Marxist
1. Liberal Theory

- According to liberals, Nationalism is not natural but it is an evolution. It is a product of modernization which means Humanism, rationalism and other features of modernity.
Theories of Nationalism

2. Marxist

- Nationalism is a Bourgeois concept. “Nationalism is invented tradition”. It was invented to weaken the struggle of the underprivileged. Nationalism always favours the interest of the elites.
3. Culture Nationalism Theory

- Nationalism is natural. National is a spirit, Nationalism is a closely related to the concept of Race.
- The term Nation comes from the term NAZI which means race.
- Race represent an extended kinship group.
- Every race develops in a particular Geography.
3. Culture Nationalism Theory

- Geography impacts ways of life. Way of life becomes culture. Every Race has its specific culture.
- The strongest expression of culture is language.
- Hence, people speaking one language or belonging to one race or belonging to one religion or Ethnicity from one Nation. In Europe the primary basis of Nationalism has been linguistic.
Two Types of Nation

1. Cultural Nation
2. Political Nation
1. Cultural Nation

- It is homogenous, like European Union Nation or Israel
2. Political Nation

- Heterogeneous, where Nation is to be built either by Constitution or through other measures like modernization. Example- USA, India,
- USA- USA has achieved the status of Nation but India is in the process of Nation building.
Federalism, secularism, rule of law, judicial independence, democracy are the means employed for the creation of India as a political Nation the success of India's journey towards Nationhood is because of the Constitution.
Context of the Debate
There is a lack of consensus among different school of thought, with respect to the nature of activities happening in subcontinent between 1857 to 1947. For some, the political activities can be called as National movement but for other Nations should exist before National movement.
The debate was started by colonial administrators and historians. Colonial administrators like Lord Duffrin, Lord Curzon held that India is nothing more than geographical expression. They never accepted that political movement lead by Congress was a National movement. In the words of Lord Dufferin “Congress was representing Microscopic Minority.”
Imperialist historians (Cambridge School) Scholar like Louis Namier and Anil Seal denied the political activities during 1857 to 1947 as National Movements.
If it was not a National movement then what was the nature of political activities?

1. It was a communal movement.

2. Leader were community leaders.

3. Leaders where actually power brokers. They were trying to get British favor for their communities.

4. There was no Grand India inspiring political leaders. Politics was guided by animal instinct.
It was not a National Movement then, what was the Nature of Political Activities.

It was a communal politics and formation of Pakistan is the logical outcome of communal politics.
According to them, the nature of politics in contemporary India has not changed. There is no change in the approach of the leadership.
Nationalist Response

- Nationalist leaders and historians reject imperialist views as discourse.
- within Nationalist.
There were two streams of nationalism:

1. Liberal Nationalist (Early Nationalist)
2. Cultural Nationalist
1. Liberal Nationalist (Early Nationalist)

- **Surendra Nath Banerjee** in his autobiography "Nation in making", He accepts imperialist challenge but believes that it is only partially correct.
- It is true that India is not a Nation but we cannot Deny that India is a Nation in making.
2. Cultural Nationalist

- Example- *Aurobindo Ghosh*, He criticizes both the imperialists as well as early Nationalists and has established that India is not a Nation in making but has always been a Nation
- According to him, every Nation has a spirit.
- There is a spirit of India which cannot be denied.
- Like Vivekananda, he believed that amidst diversity there exists fundamental Unity
Nationalist historians like Dr. Tarachand and RC Majumdar give following arguments in defense of existence of National movements.
• 1. It is wrong to suggest that there was no National movements.
• 2. It is wrong to believe that the agenda of Congress was exclusive.
• 3. It is wrong to believe that the movement was entirely guided by animal instinct. There was no Grand India inspiring the political leaders.
4. There was a definite Desire among Indians to emerge as a Nation. Congress was a National party and India had leadership which can be called as National.

The survival of India as a Nation against all odds internal and external suggest that we cannot deny the existence of India as a Nation.
Marxist School

- Karl Marx
- MN Roy
Marxist School

- **Karl Marx** himself analyzed the nature of British rules in India and the revolt of 1857 according to him, British rule acted as a source of modernization.

- He held that the revolt of 1857 cannot be considered as war of independence, rather it was the revolt by Feudal elements to protect their privileges.
Marxist School

- MN. Roy In his “BOOK INDIA IN TRANSITION” has analyzed that nature of political activities under Congress and Gandhi, has established that Congress program was not in the interest of masses. Congress was bourgeois party and Gandhi was Bourgeois leader.
Marxist School

A.R. Desai

R.P. Dutta
A. R. DESAI

- Book- Social Background of Indian Nationalism
- Both Marxist scholars also have similar views like M N Roy.
R.P. DUTTA

- Book - India Today

- Both Marxist scholar also have similar views like M N Roy.
Sumit Sarkar
Book-“Modern India”
Sumit Sarkar warns the Marxist scholar for taking casual approach.

- It is true that Congress program was not in the interest of the masses. But it is also true that Congress had not secret agenda against masses.
- There were differences but Indians were not sharply divided that they could not be united.
Bipin Chandra
Book- "India's Struggle for Independence"
Despite Marxist Scholar, He suggests that the movement led by Congress was a National movement.

It was a mass movement Gandhi lead the largest controlled peaceful mass movement ever in history.

It was the most spectacular mass movement whose warmth is felt even in the contemporary India.
Dalit /Sub Alter Perspectives

Dalit perspective challenges the Nationalist perspectives. The nationalist perspectives looks at INC as National party representing masses.

However, the Sub alter perspective represented by non Brahminic leaders like Ambedkar and Ramaswamy Nayakar held that Congress was party of brahmanins and Congress movement is movement of elites.
One of the most Scholarly analysis of role of Congress and Gandhi towards the majority/Bahujan Samaj has been done by Ambedkar.
Ambedkar was a Critique of Indian Nationalism has Two Dimension-

1. Assessment of the work of Congress and implication of the goal of Swaraj with respect to Dalits.

2. Ambedkar own ideas about India as a Nation. Ambedkar's views has been influenced by..
Ambedkar's views has been influenced by...

A. Jyotiba Phule

B. French Concept of Nationalism based on the idea of fraternity.
Jyotiba Phule was a Critique of Brahmanism.
BOOK- GULAMGIRI

- He held that British Raj is better than Peshwa Raj.
- He praised British, established equality before law for the first time in India.
- However, he felt that Britishers have not done enough for untouchables.
- His prominent work is “Gulamgiri”.
Arun Shourie

Right Wing Scholars
Ambedkar has been criticized as Anti National by Arun Shourie.
BOOK- WORSHIPPING FALSE GODS.

- Ambedkar has been criticized as Anti National by right wing Scholars like Arun Shourie in his Book “Worshipping False Gods”.
Arun Shourie held Ambedkar Anti National for following Reasons

1. He did not participate in National movement led by Congress and Gandhi.

2. He supported Jinnah demand for Pakistan.

3. He advised Dalits not to respond to the call of Gandhi.

4. He wanted British should stay back and opposed Quite India Moment
However, Scholars like SM Gaikwad has defended Ambedkar’s stand and has clarified Ambedkar’s contribution in making National movement more inclusive and responsive to the concerns of untouchables.
1. Ambedkar believes that Congress is a party of Hindus, which does not differ from Hindu Mahasabha. It reflects Hindu mind and Hindu aspirations.
2. According to him Congress had no interest in making India a true Nation. In the name of Nationalism Congress was trying to protect the privileges of the brahmins and upper caste. The opposition of Congress towards the core interests of untouchable was loud and clear.
3. He had no faith in Gandhi's Swaraj freedom from British will not end the misery of the untouchables. Swaraj would make Hindus more powerful and untouchables more deprived. Swaraj without solving the social questions. (Problems of Untouchability) will close all prospects and untouchables will remain Hewers of wood and drawers of water.
4. Ambedkar held that Swaraj will not result in ending the discriminations, Gandhi wants us to ignore social concerns, He puts excessive emphasis on political liberation.

- There is no justification in the theory that patriotism means submission to local tyrants.
Ambedkar's Views On Nationalism

• 1. Ambedkar was inspired by the French idea of fraternity. He wanted that equality and dignity should be treated as the fundamental value of Nationalism in India.

• 2. Nationalism is freedom from both external domination and internal oppression.
Ambedkar's Views On Nationalism

• 3. Indian society gives no scope for the sentiments of equality and fraternity. Indian society is nothing but gradation of castes on ascending scale of reverence and descending scale of content.

• 4. Freedom of the country cannot be distinct from the freedom of its people and that too majority.
Ambedkar's Views On Nationalism

• 5. Nationalist leaders put excessive emphasis on political freedom rather than social. Politically, we can consider India as a one unit but socially we are divided.

• 6. Without social freedom, Swaraj will be conduct of internal slavery and recognized Tyranny for poors.
Ambedkar's Views On Nationalism

• 7. Nation is a negation of caste and communalism.

• 8. Nationalism requires strong will to live as a Nation. Nationalism reject a irrationalism.
9. According to SM Gaikwad, Ambedkar’s Idea was the rejection of intolerance, hypocrisy instinctive dislike towards inequality.
Thus, Ambedkar critique of Congress challenges the meta narrative and at the same time help in addressing the flaws and making Nationalism inclusive and responsive.
Ramaswamy Nayakar was initially Member of Congress but later on come out of Congress as he felt that it is a party of Brahmins means.

- there is no scope for other castes.
- Against Congress led movement which he felt was Brahminic movement.
- Naikar started self respect movement, he even put forward the demand for the separate state for Dravidians
Socialist Perspective

Socialism in India was influenced by Russian Revolution.
Socialism appealed to the Youth in India.
Revolutions like Bhagat Singh, leaders like Nehru and Bose were inspired by socialism.
Que. Socialist Perspective

Unlike communist, socialist did not criticize Congress. They were influenced by Karl Marx as well as by Gandhi. Their aim was to gradually orient Congress programs towards more radical agenda in favour of peasants and workers.
Under the leadership of Pandit Jawaharlal Nehru India adopted socialist pattern of the society.
Radical Humanist Prospective

- 1. Criticism of Congress and Gandhi
- 2. His own idea of struggle, he favored mass movement and believed that masses in India are ready for communist revolution. Later on he became radical humanist
AIM OF RADICAL HUMANISM

• 1. Liberation in a true sense, individuality should not be suppressed under any collective ego either of class or Nation.

• 2. R.H. Transends Nationalism and calls for cosmopolitan union.
Legacy of British Rule
Legacy of the British rule
• meaning of legacy ➔ continuity

Que. Why Legacy....??
• Answer. Indian freedom movement was not a Revolution rather transfer of power. Comparison with Chinese and Russian Revolutions, there was no fundamental transformation.
He held that he is sure British will leave India one day but they will leave so much dirt and filth that over so many generations may not be able to clean.
<table>
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<td><strong>1. Partition</strong> - Sown the seeds of bitterness and stops emergence of India as Nation.</td>
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Worst Legacies

• 5. Rural Poverty

• 6. Unemployment

• 7. Lack of Balanced Regional Development

• 8. Corruption.
Good Legacy

1. Rules of Law
2. Parliamentary Democracy
3. Separation between Military and Civilian Bureaucracy
Making Of Indian Constitution.
• Que.1. To what extent Indian Constitution can be called as consensus document?

• Que.2. Explain the meaning of constitutional morality? What is the linkage between constitution morality and the constitution of the Constitution in India.??

• Que.3. Discuss the debate on the nature of constituent assembly.
1. There has been a question mark on the nature of Indian Constitution and its legitimacy.

In 1922, Gandhi promised that Swaraj will not be the free gift of the British. Swaraj will be the expression of Indians what they wanted.

In 1934, Congress working committee adopted a resolution that the constituent assembly will be elected on the basis of Universal adult franchise. However, none of these promises were put into practice.
A. Constituent assembly was based on cabinet mission plan which was product of British Parliament.
Constituent assembly was not directly elected all the members were not elected, there were nominated members from princely States. Representatives from British India were indirectly elected by provincial legislative assemblies on the basis of proportional representation by Single Transferable Vote system. At that time only 5% of Indians had right to vote.
C. Once Constitution was framed, it was not put for referendum for the expression of will of people of India as happened in case of France.

D. Constituent assembly was dominated by Congress. Muslim League boycotted the assembly in terms of caste and class. 80% were from upper caste out of which 25% were brahmins.
E. In less than 70 years of its existence, our Constitution has been amended for more than 100 times. (However, US Constitution has only 27 amendments. In fact the first Amendment took place in the very first year of Republic).
• F. There is a lack of clarity with respect to many provisions resulting into long drawn battles in Supreme Court.

• Above arguments questions legitimacy of the constituent assembly and the Constitution.
Arguments in Defence

• Though above arguments are factually correct but it would not be appropriate to believe that the Constitution does not reflect the will of the people.
Granville Austin

- Granville Austin, Who is regarded as the authority on Indian Constitution has considered Indian Constitution as cornerstone Of a Nation.
- He gives the credit for survival of India as a Nation to the Constitution.
Granville Austin

- It is true that constituent assembly was one party assembly but it is also true that India was one party State.
- "Congress was India and India was Congress."
Key points that constituent assembly was oligarchy dominated by

Nehru

Patel

Maulana Azad
Nature of Constitution Assembly

- Yet Congress had co opted with the members of other parties like Hindu Mahasabha, Communist and Republican Party.

- Despite they did not get a single seat.
Nature of Constitution Assembly

- Congress adopted the method of consensus.
- Majority of the provisions were adopted by consensus and voting took place only on few matters.
We can give following arguments to support representativeness of the constituent assembly and legitimacy of Constitution:

1. Time was not conducive to held elections.
2. Result of first **Lok Sabha** Election confirms the representativeness of the assembly.
We can give following arguments to support representativeness of the constituent assembly and legitimacy of Constitution.

2. Supreme Court in *Keshav Nand Bharti Case* has settled the matter that Constitution is given by people of India to themselves. According to Supreme Court, there is no point going for finding factual correctness. We have to accept it as correct, court added that anyone knowing the composition of the Assembly will never challenge representativeness of assembly.
3. The National Commission for the review of the working of the Constitution which was set up by non-Congress government has not suggested any changes in the Constitution.

Indian Constitution is an organic document continuously evolving.

We can give following arguments to support representativeness of the constituent assembly and legitimacy of Constitution
We can give following arguments to support representativeness of the constituent assembly and legitimacy of Constitution.

- 4. Constitution is a consensus document
- And we cannot imagine the existence of India as a Nation without It
Pratap B. Mehta has held that Indian Constitution is cosmopolitan Constitution.
What does it mean Cosmopolitan?

1. Base on Universal principles of liberty, equality and fraternity

2. It is drawn from many source and traditions

3. Judiciary interprets the Constitution by taking into account various judicial traditions.
Salient features of Indian Constitution
Silent feature of Indian Constitution

• Que.1 Discuss the prominent judgements of Supreme Court with respect to Preamble.

• Que.2 Critically evaluate the relevance of different ideal given in contemporary time

• Que.3 Discuss the nature of secularism as found in Indian Constitution. Do you think secularism is a western concept and not suitable for highly religious Civil society in South Asia.

• Que.4. Discuss prominent judgements of Supreme court with respect to issue of secularism in India?
What is Constitution?

- Constitution is considered as fundamental law governing the political system.
- In general Constitutions, are called as Power map (Sartoshi).
- However, Indian Constitution is more than a power map.
What is Constitution?

- Indian Constitution not only describes the power and functions of different Institution of the government.

- It also describe the aim and aspirations of the founding father towards the goal of Indian political system.
What is Constitution?

• Indian Constitution is considered as a revolutionary document.

• The objective is not just to describe the features of government but to transform a highly traditional society into a modern society.
What is Constitution?

• Revolutionary method never got widespread acceptance in Indian physique.

• Indian culture based on toleration, pluralism and non violence has been compatible only with the Peaceful method of transformation.
Hence G Austin suggests that political revolution was over and social revolution was to start.
Que. What is Constitutionalism?

- Constitutionalism can also be considered as Constitutional morality, an Act of deliberate Restrain by those who are in authority.
- Hence Constitutionalism signify the rule of law. Constitutionalism can exist even without Constitution(Britain).
Que. What is Constitutionalism?

- Constitutionalism can exist even without Constitution (Britain).
- At the same time there are many examples in third world where the ruling class established arbitrary governance even when Constitution exist.
GOD!

Absolutism

KING

Thomas Hobbes - *Leviathan*
Robert Filmer - *Patriarcha*

Constitutionalism

LAW

John Locke

Christian Gurus
Nature Of Indian Constitution

- Written Constitution.
- Every Constitution has written and unwritten part.
- Those Constitution are called as written which are the product of constituent assembly.
- British Constitution is called unwritten because constituent assembly was never called.
Thus, despite huge written Constitutional Laws, British Constitution continues to be treated as an unwritten.

It is to be noted that French Constitution is the only written Constitution not prepared by constituent assembly rather by a committee appointed by cabinet.
Question

- What is the purpose of Preamble?
- Is Preamble a necessary feature of Constitution.
- Can ordinary law also have Preamble?

Answer

- Any law can have Preamble because the purpose of Preamble is like instructions. Laws are drafted in a technical manners. Hence to make sense of the law preamble and introductions are attached.
CONSTITUTION OF INDIA

Preamble

WE THE PEOPLE OF INDIA, having
solemnly resolved to constitute India into a
Sovereign Socialist Secular Democratic Republic
and to secure to all its citizens

JUSTICE
Social, economics and political:

LIBERTY
of thought, expression, brief, faith and worship

EQUALITY
of status and of opportunity; and to
promote among them all

FRATERNITY
assuring the dignity of the individual and
the unit and integrity of the Nation

IN OUR CONSTITUENT ASSEMBLY
this twenty-sixth day of November, 1949, do

HEREBY ADOPT, ENACT AND GIVE TO
OURSELVES THUS CONSTITUTION
WHY PREAMBLE IS CALLED HOROSCOPE?

- KM Munshi called Indian Preamble as horoscope.
- It is horoscope of the Nation.
Purpose of Horoscope

1. To tell the time and place of birth.
2. To tell the characteristic feature of the Personality
3. To make prediction of Future.
Indian Preamble act as a Horoscope because

1. It tells the date and place of adoption.

2. Personality elements sovereign, social etc.

3. Future... Direction to establish a society based on Justice to achieve the goals of human dignity and unity and integrity.
Superem court and Preamble

• Supreme court has to deal with the following questions related to preamble.

• Q.1 Whether Preamble part of constitution

• Q.2 Whether permeable can be amended or not?

• Q.3 Whether Constitution to be interpreted in the light of ideals found in Preamble.
1. Berubari Case (1960)-

- SC held that Preamble is not the Part of Constitution.

- On what basis. Supreme court took the precedence of USA. In USA Preamble is not considered as part of Constitution?
2. Keshav Nand Bharti Case (1973)-

- Supreme court overruled its decision in Beru Beri case and held that preamble is part of the Constitution.
What Basis

Supreme court admitted that in Beru bari case, It overlooked the important fact associated with the preamble unlike USA, In India preamble was adopted by the constituent assembly by the motion. Which mentions that Preamble is being adopted as a part of the Constitution.

Supreme court also held that It is an integral part of the Constitution.
Why there was a question?

- Though preamble is a part of Constitution that it is not a provision of the Constitution.

- Article 368 deals with the Amendment of the provisions of Constitution.

- Hence there was a technical problem with respect to Amendment.

- In (K Bharati Case 1973) Supreme Court held though not a provision of the constitution, yet not outside the purview of amending power of parliament.
Why SC took above Stand?

1. Unlike USA constitution preamble in Indian constitution does not work before the constitution Indian preamble walk with constitution.
2. There was a purpose behind adoption of Preamble in the last. Purpose was to ensure that harmony remains between Preamble and the Constitution. They should not be walking on different tracks. It may happen that the provisions are amended and in the light of amended provisions the ideal in Preamble start appearing contradictory.
Que. Should preamble considered as an important tool in interpretation of constitution??
1. A.K GOPALAN CASE (1950)

- Preamble should be used only when, there is a ambiguity.
- It means preamble is not essential to interpret the provision of the Constitution.
2. BLRUBARI CASE (1960)

- Maintained the earlier stand and Supreme court held that Preamble is like lighthouse.
- To throw light where there is a lack of clarity.
- Supreme court also held that Preamble is a key to unlock the mind of constituent assembly.
- It clarified that preamble in itself is not a source of power, not a source of denying any power which has been given explicitly.
3. KESHAV NANDAN BHARTI CASE (1973)

- Supreme court overruled its earlier view.

- It held that Constitution has to be interpreted in the light of grand vision expressed in preamble.

- It means Preamble has to be treated as an important aid in the interpretation of Constitution.
• Que. Discuss the contemporary relevance of the different ideas given in Preamble.

• Que. India is sovereign- Discuss the impact of globalization on sovereignty.

• Has globalization diluted Indian sovereignty ?*
Theme... 1. Globalization need not be the dilution of sovereignty. It is reinterpretation of sovereignty. Globalization has given new concept of sovereignty.

2. Sovereignty as responsibility.

3. Pooled sovereignty.
Now discuss uniqueness of India-

Actually globalization has strengthened the capacity of India and today India is more confident in exercise of its sovereignty.

India never looked at internationalism contrary to the National interest and has been a major factor in the evolution of international law. India's worldview has never been incompatible with the ideal of cosmopolitan world order.
Que. Discuss the contemporary relevance of the different ideas given in preamble.
How much are we committed to the Goal of Socialism?
Question 2

• Que. What is Indian Concept of Socialism?
1. Socialism is a Hat that has lost its shape.

2. Indian socialism more inspired by Fabianism and Gandhi's sarvodaya.

3. Relevance of socialism in India.
Socialism Natural with Mass Poverty
In 1955, avadi session of Congress, Pandit Nehru explained the Idea of socialistic pattern means redistribution of wealth.

In 1976 it was added in Preamble.
4. Supreme court judgment in Samatha versus state of Andhra Pradesh case (Indian socialism is about redistribution and minimizing inequalities).

5. Since adoption of LPG model there has been question mark on commitment towards the goal of socialism.

6. Neo liberal economic policies resulted in to increase the disparities. Hence government has changed the approach and started investing in capacity building.
New legislations like MNREGA, Right to Education, Right to Food aims at establishing the equality of capabilities. Thus aims has not changed, only methods have changed and today, we have been in a better position to significantly reduced the prevalence of Mass Poverty.
3. DEMOCRACY

- 3. Democracy ➔ Representative and procedural.
- Idea of democracy is to make it
  - Participatory,
  - Deliberative,
  - Inclusive,
  - Substantial.
4. REPUBLIC

- In narrow sense, it is anti thesis of monarchy.
- It is rejection of heredity and recognition of merit and choice.
- Relevance of the ideal go beyond the nature of head of the state.
4. REPUBLIC

- It targets against the traditional society where "birth rather than worth" was the basis of opportunities.

- Recognition of republic marks the emergence of India towards modern society.
Theme of Secularism-

- To understand the equation between individual, religion and state.
- The term secularism was coined by a scholar Holyoake in 1851.
- Secularism is considered as child of Christianity and gift of modernity. Secularism is understood in conventional sense as a western phenomena.
1. Secularism-

- Secularism is associated with reform movement in Christianity known as Protestantism.
- It confines god to personal sphere.
- Hence It is called as child of Christianity.
1. Secularism-

- Preliminary Protestantism, No such reform movement happened in other religions.

- The way of life in public sphere in other religions continue to be influenced by religion.
2. Gift of Modernity

• There were religious wars in Europe and religion was coming in the path of consolidation.

• In western world as a result of the emergence of capitalism the institution of Nation state came into existence.
2. Gift of Modernity

• The basis of solidarity in the Nation state was idea of Nationalism rather than religion.

• The idea of Civic Nationalism, universal citizenship and uniform civil code was adopted.
In Western World Secularism and Secular State Denotes

• 1. Civic Nationalism

• 2. Uniform Civil code

• 3. Universal Citizenship
In Western World Secularism and Secular State

Denotes

• 4. Separation of personal and political, religion to be confined to personal sphere.

• In western world we see different models of secularism.
1. Strict Neutrality - France
2. Ultra Procedural - USA
3. Substantive Model - Based on Values of Secularism.
Values of Secularism are Human Dignity and Liberty.
Que. What is Ultra Procedural?

• Answer
  • Constitution of USA prohibits neither federal government nor government of any state can declare any religion as official religion.
Comparison with Britain

- In Britain protestant religion and protestant church is official religion and official church
- However, in matter of policy state does not take religion in account.
India

- Indian model is substantive model.
BOOK- INDIA A SECULAR

- Analysis of India as a Secular State.

- One of the earliest scholarly work on nature of India as a secular state is of D E SMITH book "INDIA A SECULAR" state published in 1962.
BOOK- INDIA A SECULAR

- He held that India has few features of secular state and not all the features there are three essential features of a secular state.
BOOK - INDIA A SECULAR

- 1. Freedom of Religion.
- 3. Separation between Religion and State
According to DE Smith, first two features are present and the third feature is missing.
According to DE Smith, the idea of secularism in India is very fragile considering 80% of population is Hindu.
According to DE Smith, the minorities are the custodians of Indian secularism.
• It means India will retain the character of secular state so long minorities are organised and proactive in protection of their interest hence minorities have to be conscious of their rights to ensure India remains secular.
Marc Galanter has challenged the thesis of D.E. Smith with respect to the state of India as a secular state. According to him, Smith's approach is dictated by the model of secularism in Western countries.

It is wrong to compare the Indian model of secularism on the basis of the Western model of secularism. The Indian model is unique and in accordance with the requirements of Indian society.
Rajeev Bhargava has given following features of Indian secularism he calls Indian model as principled distance model.
Que. What is Principal Distance?

- According to Bhargav, Indian model is neither of religious neutrality and nor of equal distance.
- In fact there is no overarching idea of secularism.
1. State cannot be identified with any particular religion yet it is not averse to the use of religion.
2. There is no strict boundary between religion and state, only porous boundaries.
In Indian Secularism state represent following features

3. No active hostility and no positive in difference.
Indian Secularism

In Indian Secularism state represent following features

4. Different religions are in the foundation of State.
In Indian Secularism state represent following features

5. No Overarching Idea
6. Secularism is based on Values of Liberty, Equality and Fraternity.
In Indian Secularism state represent following features

7. Politically negotiated model. model of Indian secularism emerged in context for demands for Pakistan.
Thus, for Rajeev Bhargava neither there is strict neutrality nor equal distance but state intervenes in different religion on different formulas in accordance to the requirement.
P B Mehta calls principled distance model as asymmetrical model.

In theory, it appears rational but in practice there is scope for plausibility.

Indian secularism is balancing Act.
Indian secularism is balancing Act.

It is legitimizing Vote bank politics with distinctive name.

Congress used model to placate one group or the other as and when required.
View Of Pratap Bhanu Mehta

- However, flirting with all religion is no longer viable.
- Principled distance is misleading casting secularism actually to hide the communal polities. Indian model leaves all communities insecure all the time.
Rajeev Bhargava suggests that Indian Secularism continues to be misunderstood its remains complexities and distinctiveness remain painfully elusive.
According to Romila Thapar, "we have to rescue Indian Secularism and introduce a bold Model of Secularism."
Secular features of Indian Constitution source of influence.
Secular state of India following main features

- Indian state treats all religions on equal footing.
- Indian state neither interferes with nor promotes any religion.
- It permits individual and collective freedom of religion to all citizens.
- It view all individuals as citizens with equal rights and not as members of any particular religion.
- It is not against any religion.
- It functions in a way independent of religion.
- It allows religious education in some educational institutions run and managed by minorities subject to certain conditions.
Secular features of Indian Constitution source of influence

1. Pandit Nehru
2. Ambedkar
3. Gandhi
1. Pandit Nehru

- His approach was religious Neutrality.
- Example - Article 15
2. Ambedkar

- Ambedkar's focus was on protecting the rights of minorities.
- Example- Article 29 and 30.
3. Gandhi’s

- Gandhi's concept of secularism was communal harmony and toleration.
- Example- Article 25
Secular Features In Constitutions
1. PREMABLE

- The term secularism was added in 1976 by 42nd Amendment Act. With translation of secularism in Hindi text is Panth nirpekshta rather than dharm nirpekshta.
IMPLICATIONS

1. Dharm Nirpekshta means religious neutrality. It means strict separation. There is no strict separation in India.

2. (p.n.) Means not giving preference for any particular sect or a way of life.
What change does explicitly mentioning secularism in the Constitution make?

It makes no difference on the status of India as a secular state.

Even without this feature, India was secular.
It is advisable to delight the feature-

- Though redundant in nature.

- Yet not advisable.
According to professor Upendra Bakshi, Though, It does not make any difference, Yet It makes us more conscious about the secular nature of Indian state.
2. ARTICLE 14

- Article 14
- (Equality Before Law)
3. ARTICLE 15

- Article 15... No discrimination only on the ground of religion, race, caste, and sex.

- In recent years there has been a question mark on the adherence of Article 15.

- By state authority in practices, it has been seen that administration in number of situations has not acted with Neutrality.
3. ARTICLE 15

- There have been discrimination against the member of minority communities.

- Especially by state government in registering FIR and redressed of grievances.

- It has also been accused that preventive detentions laws have been used against a particular community rather than with Neutrality.
COMMUNAL VIOLENCE BILL

• Hence, (upa1st) has introduced Communal Violence Bill, the idea was to punish the official for dereliction of official duty.

• However, bill was criticized and was considered that the remedy is worse than disease.

• It overlook minority communalism and projected majority as communal.
<table>
<thead>
<tr>
<th>Article</th>
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<td>4. Article 16</td>
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<td>5. Article 25 to 28</td>
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<td>6. Article 29 and 30</td>
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<td>7. Article 325 - which ends separate communal electorates.</td>
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Minorities in India are under Dual Burden.

1. The charges of appeasement.
2. The reality of backwardness.
Debate On Constitutional Model

• The debate on Constitutional models started with L K Advani who held the Constitution model is "Pseudo Secular"
Debate On Constitutional Model

• In the name of secularism, the Constitutional model or Congress Model is a model of "Minority Appeasement."

• However, model even fails to satisfy the aspirations of even the Minority Communities.
Debate On Constitutional Model

- Muslims which form the largest minority continues to be the most backward section of Indian society as acknowledged by Sachar commission report.

- Even after the introduction of the National Commission of Minorities there has been no qualitative improvement in the status of minorities.
Hence, Scholars like PB Mehta have suggested that we have to bring Indian secularism out of majority and minority complex.
Romila Thapar comments a bold model of secularism
Charles Taylor communitarian scholar.... In his Article on Indian secularism in a book edited by Rajeev Bhargava suggested secularism is a necessity for heterogeneous society like India.
Supreme Court on nature of Indian secularism.- Supreme court the ultimate interpreter of the Constitution has declared the various features of Indian secularism from time to time.
At times there has been criticism of Supreme Court with respect to some of the cases like Hindutva case, where it was held that the approach of legislature and executive but even judiciary has not been entirely secular.
Secularism as the basic structure of the Constitution.

Note: Federalism is the basic structure.
2. Supreme court has explained the nature of Indian secularism.

Indian Secularism has both positive and negative connotations.
Negative Connotations

- State shall not patronize any religion
1. Positive Connotations

- State shall regulate by law religions practice of religions.
- In the same case Supreme court held that religious toleration and fraternity are the postulates of Indian Constitutional order.
2. Ismail Farooqui vs Union of India (Ayodhya Case)

• Answer.
  • Judiciary has mentioned that Constitution guarantees equality to all in matter of religion.
  • Right to Equality is the central golden threat woven in the scheme of the Constitution.

- Context of case...
- Answer
  - Is It against the principles of secularism to teach the religious techniques of different religions.
  - According, to Supreme court Indian secularism based on religious pluralism toleration and such techniques does not impact the nature of India as a secular state.

- Answer
  - According, to Supreme court Indian secularism based on religious pluralism toleration and such techniques does not impact the nature of India as a secular state.

- Controversial judgment of Supreme court.
Controversial Judgment of Supreme Court

1. Commissioner of Police V/S Jagdishwarnand 2004

- **Context**-
  - Whether the dance by Anand Marg Sect can be considered as essential or integral part of Hinduism.

- **View of Supreme court.. Not an integral part.**
Why Controversy?

Article 25 gives Freedom of Conscience, Practice and Propagate Religion

In above case Supreme court asserted itself as the Supreme priest which goes against the principle of separation

Upholding Secularism

• Que. What was the Question.
• Whether freedom to propagate religion implies Force Conversion.
• Supreme court had to examine the validity of freedom of religion.

- Act of state of MP and Orissa.

- According to the critics freedom of religion Act violate the fundamental right to propagate religion under Article 25.
3. Hindutva Case 1995 (Prahu V/S Kunti Case)

- **Context**-
  - As per section 123 clause 3 of the representation of people Act 1951, appeal on the grounds of religion, race, caste will be considered as corrupt practices subjected to disqualification.
Views Of Supreme Court

- Hinduism is not a religion but a way of life.
- It represents the culture and ethos of the people.
Que. Why It is not a religion as per Supreme Court?

1. There is no prophet.
2. No ultimate church.
3. No strict religious practice
Que. Why It is not a religion as per Supreme Court?

Hence, cannot be treated as religion in the sense Islam Christianity or Judaism.

According to Supreme court until and unless the context otherwise indicate It is a way of life.
Criticism

• It allows the parties using Hindutva as the political program but discriminants against the use of other religious.
4. Abhiram Singh V/S Comachen 2016

- It also deals with RPA representation of people Act Section 123 subject section (3)
- Appeal in the name of religion and caste to be treated as corrupt practices.
- Supreme court prohibited the use of religion for elections.
4. Abhiram Singh V/S Comachen 2016

- Supreme court held that state being secular cannot be identified with any religion.
- Election is a secular process.
- Hence, the secular outlook and practice has to be maintained.
Que. What was the issue that was to be Settled?

Supreme court had to clarify the scope of the word *his* used in section 123 (3).

Supreme court clarified that *his* include the candidate, agent and even voters.
Criticism

- Supreme court has not revised.
- Its views on Hindutva.
- Hence Hindutva can continue to be used.
According to Pratap Bhanu Mehta. It will be difficult and arbitrary to determine when appeal becomes religious.
Examples. Beef Ban, Akali Party, Samajwadi party how. It will be practically possible to implement the orders.
5. Ramarajan Bhoomi Case

- Lucknow branch of Allahabad high court in 2010 gave following judgment...
  - 1. Disputed site is a birthplace of ram lala.
  - 2. High court has not looked into the legal basis of rights rather tried to achieve.
5. Ramarajan Bhoomi Case

- Communal harmony by dividing the disputed property among three claimants.
  - 1. Part to Ram lalla.
  - 2. Path to Nirmohi Akhada.
  - 3. Part 2 Waqf Board.
Supreme Court Judgment in Shah Bano Case

- Supreme court directed the government to give maintenance to the aggrieved under section 125 of CRPC as available to Hindu women.
- Though.. Appreciated by liberal Muslims and women organization.
- It was opposed by, orthodox section as It goes against freedom to practice religion granted under Article 25
Supreme Court Judgment in Shah Bano Case

- Even Supreme court judgment in Triple Talaq Case has been questioned because It has claimed itself to be ultimate interpreter of Quran.

- According to the majority in Constitution bench Quran does not permit instant divorce or "Talaq A Biddat."
Supreme Court Judgment in Shah Bano Case

• Though, All India Muslim Personal Board has issued directions for the social boycott of the person using Talaq e Biddat.

• Though, all India Muslim personal board believe that Quran can be interpreted only by ulemas.

• Supreme court. has no search qualification to interpret Quran.
Conclusion

• Answer-
  • Thus, not only legislature, executive and administration has been accused of discriminating against minority religions.
  • Even the secular credential of the Supreme court has been questioned.
• Hence, Scholars alike PB Mehta suggest, that we have to bring secularism out of the complex of majority and minority.

• He suggests that principal distance to appear sound in theory has scope of lot of plausibility in practice.
Context

• Religion and Politics have been together since Ancient Times.

• It is a neither unique to India nor non western world rather Universal and transcendental.
Role Of Religion In Indian Politics

Contemporary Scenario

• The present scenario around the world affirms S. P. Huntington's thesis that culture and religion are permanent determinants in politics.
Q.. Is role of Religion good in Politics?

It is a form of Identity politics.
Nature Of Identity Policies

- There is a debate between community and libertarians.

- Communitarians and multi-culturalist suggest politics of community as it favors and weaker marginalized sections.
But according to liberal Scholar like Amartya Sen, It is neither good for Nation nor for development.
Que. What are the unique feature of Identity Politics.

1. It is based on passion, emotions rather than reasons. Once passions are raised, we cannot control it. Hence, it is necessarily violent in nature.
Que. What are the unique feature of Identity Politics.

2. Exclusivist in nature, It is against development the reason is It threatens peace and stability.
Role Of Religion In Indian Politics

• India has faced the worst consequence in the form of partition of subcontinent.

• There should be no scope for communal politics
Evolution Of Communal Politics In India

1. Pre-British
2. British Time
1. PRE-BRITISH

- Even Marxist historians like Romila Thapar accept that there were no communal riots in Indian subcontinent before the advent of British.
- Though, there are some incidents of few sectarian conflict that too an extremely local phenomena.
2. BRITISH TIME

a) Revolt of 1857-

- Britishers felt that Muslims wear responsible and so started appeasement of Hindus.
- Sir Syed Ahmed Khan Expressed loyalty of Muslims towards the Raj.
- Britishers Always Preferred Coalition with minorities because minorities are always more insecure and can be more permanent partners.
b) 1906 formation of Muslim League with the support of British
2. BRITISH TIME

c) 1905 Partition of Bengal
2. BRITISH TIME

d) 1909 Separate Communal Electorate for Muslims.
2. BRITISH TIME

e) 1915 Savarkar formed Hindu Mahasabha against the challenge of Muslim League.
2. BRITISH TIME

f) 1919 Government of India Act, introduction of separate communal electorate for other religious communities.
2. BRITISH TIME

G) 1923 Savarkar gave the Theory of Hindutva which means India is Hindu Rastra.

Savarkar Nationalism suggested that person's father land and spiritual land has to be one.
• Response of Mohmand Iqbal He gave the concept of Muslim “UMMAH” i.e. Muslim brother hood.
• It implies-
  • 1. Islam does not believe in the concept of territorial Nation.
  • 2. It is unislamic for Muslims to live under men made laws.
Note- Scholars like Christopher Jefferlot blames Gandhi for bringing Khilafat issue in otherwise Secular Movement.
H) Formation of RSS-

RSS was formed in reaction to aggressive Pan Islamism.

RSS propounded Militant form of Hinduism to overcome the Hindu sense of vulnerability.
2. BRITISH TIME

I) 1932 Communal Award was the attempt to even divide Hindus so that no one remains in majority.

Above events, the role of imperialists, trust deficit among the communities all culminated into the tragedy of Partition.
3. After independence

A. Up till 1960-

No major communal riot in India but bitterness of the partition continued Nehru government has banned communal organization.

B. From 1960 onwards-

1960 is called dangerous decade by Selig Harrison.
Que. Why dangerous decades?

1. Beginning of communal riots even during the time of Pandit Nehru starting with Jabalpur, Ranchi, Ahmedabad, Nagpur, Aligarh.
Que. Why dangerous decades?

2. Linguistic Politics-
   There are two aspects..
   
   A. demands for Linguistic State.
   B. Opposition to Hindi as Official Language.
Que. Why dangerous decades?

3. War with China and Pakistan
C) 1970 and 1980

1. During the time of Indira Gandhi use of religion and caste has increased as there was breakdown of Congress system.
C) 1970 and 1980

- One of the worst tragedy of her time is operation "Blue Star", association of and Gandhi and anti Sikh riots not just in other areas of north India but in the capital city.
C) 1970 and 1980

- (Paul brass, specialist of communalism).
- Analysis of nature of Communal Riots.
Que. What is his Thesis?

• Though... It is generally believed that communal violence in India is spontaneous but in reality it is all well planned and managed events.
• Since everyone is benefited by communal violence, communal violence is always allowed to remain in air.
• Atmosphere in India is never free from communism.
There are Active and Passive Phases

1st Stage: Preparatory Stage
2nd Stage: Precipitation Stage
3rd Stage: Explanatory Stage
THERE ARE ACTIVE AND PASSIVE PHASES

a) 1\textsuperscript{st} Stage- Preparatory Stage

- Answer-
  - There is Proper Rehearsals, Division of Labours.
  - In this stage there is a role of fire tenders.
THERE ARE ACTIVE AND PASSIVE PHASES

b) 2\textsuperscript{nd} Stage - Precipitation Stage

• Answer-
  • When violence actually erupts here comes the role of conversion specialist.
  • Example - Sangeet Som
THERE ARE ACTIVE AND PASSIVE PHASES

b) 3rd Stage- Explanatory Stage

• Answer-
  • When blame game starts every party is benefited.
  • There are award function and picnics.
D) Communalism during Rajiv Gandhi Phase

• He followed “Dual Appeasement”.
Dual Appeasement

1) Appeasement of Hindus
2) Appeasement of Muslims
D) Communalism during Rajiv Gandhi Phase

- 1) Appeasement of Hindus-
- With in two years, his party saw largest number of defections.
- Hence, tried to appease Hindus- by allowing the opening of lack of Ram Janmabhoomi.
D) Communalism during Rajiv Gandhi Phase

- 2) Appeasement of Muslims -
  - government overturn the revolutionary verdict of Supreme court in Shah Bano Case Congress policy of appeasement of Hindus made by BJP more insecure hence, started raising Ayodhya issue more vigorously.
E) Communalism during VP Singh

• Answer-
  • Unable to manage coalition politics insurgency is in Kashmir and Punjab and economic challenges.
  • VP Singh played caste card by announcing the implementation of Mandal Commission Report.
RESPONSE OF BJP

• Answer- BJP became more insecure by losing Hindu votes and was not left with any other option to remain politically significant except Rath Yatra.

• Rath yatra culminated into Babri Mosque Riots, Babri Mosque Demolition, Mumbai Riots, Godhra (Gujarat) Riots, Muzaffarnagar..etc...
INDIAN POLITICS SINCE 1990’S

• Answer-
  • Mandal and Kamandal become the new idoms of Indian politics.
Scholar Thomas Hansen Blom
BOOK- THE SAFFRON WAVE

- Explained the rise of communalism and weakening of secularism in the form of rise of BJP from two seats in 1984 to the situation of formation of government within such a short time is attributed to the factors of caste and religion
Analysis Of Rise Of BJP

• Rise of BJP is not a religious phenomena but political phenomena.
• It is also the byproduct of the economic changes that were taking place in India.
• He calls It as plebianisation of Indian politics
Analysis Of Rise Of BJP

• It is a byproduct of economic reforms which has given rise to "amorphous middle class " middle class getting anxious because of the consolidation of the lower middle classes found compatibility with the economic and cultural programs of BJP, globalization and NRI and factors also supported BJP rise.
Question

- Explanation for communalism in India
There are Four Theories

1. Essentialist
2. Instrumentalists Bipin Chandra
3. Institutionalism
4. Social Constructivists
1. Essentialist

- Scholars- Louis Dumont

- According to essentialist, Hindus and Muslims are two antagonistic communities, coexistence is not possible and Hence they are bound to compete.
2. Instrumentalists Bipin Chandra

- Religion is used by Elities for political gains.
- Thus, It is an instrument and not essential condition.
3. Institutionalist

- Scholar Asghar Ali engineer
- Public policy in India is based on religion and Hence It is bound to be there.
4. Social constructivists

Different communities, they continue to possess certain stereotypes about each other make mental maps and live with that.

• There is no communication to Bridge trust deficit and to address the stereotypes.
Uniform Civil Code
Should there be a Uniform Civil Code?

- Issues involved in debate
Objectives

1. Gender Justice
2. National Unity
3. Secularism
What Is Uniform Civil Code?

- Uniform Civil Code actually means replacing the basis of law instead of religious scriptures.
- Law should be the product of rational deliberation.
- Uniform Civil Code is a 17th century European phenomena and we have to see whether it is relevant for the 21st century India or whether it is relevant even for 21st century Europe.
Why Uniform Civil Code emerged?

• Rise of UCC is historical linked to the rise of Nation States.

• Europe has witnessed 30 years of War on ground of religion.
Why Uniform Civil Code emerged?

- Hence, European statesman separated religion and state.
- Religion was confined to personal sphere and all other matters come within the scope of sovereignty of the state.
According to Hobbes, the law made by State shall be Supreme.
Why Uniform Civil Code emerged?

- Thus the law governing different aspects of life have to be created by the state.
Uniform Civil Code

• This also required democratic deliberation.
• All law have to be aligned with the Constitutional principles.
• Hence, it automatically becomes common for all
• Hence It is called as Uniform Civil Code.
Uniform Civil Code

• However, it is not necessary that laws have to be uniform.

• State can make separate laws for separate communities also.
Que. What is the Situation?

- With the exception of Muslims, there is a state made law for all other communities.
- The Britishers have codified Christians’ law.
- After independence Parliament has codified Hindu Laws.
Que. What is the Situation?

- Later on even separate Sikh personal laws has also been codified, known as Anand Marriage Act.
- Only Muslim personal law remains outside the preview of the state because of Muslim personal law shariyat application (Act 1937) the Act prohibits the intervention state in personal laws.
Que. What is the Situation?

- **Article 13 (2)** empowers Supreme court to declare any law invalid if it is not in accordance to part 3rd.

- However, what will constitute law, continuous to be contested.
ARTICLE 13

LAWS INCONSISTENT WITH OR IN DEROGATION OF THE FUNDAMENTAL RIGHTS

13(1) All laws in force in India before the commencement of this Constitution, so far as they are inconsistent with the provisions of Part-III of the Constitution, shall to the extent of such inconsistency, be void.

13(2) Says that the State shall not make any law which takes away or abridges the rights conferred by Part-III and any law made in contravention of this clause shall, to the extent of the contravention, be void.

13(3) Defines law - law includes any ordinance, order, bye-law, rule, regulations, notification, custom or usage having the force of law.

13(4) Nothing in this article shall apply to any amendment of this Constitution made under Article 368
Que. What is the Situation?

- It is not declared whether Muslim Personal Law comes within the definition of law.
- There is a decision of Bombay High Court in *The State Of Bombay vs Narasu Appa Mali on 24 July, 1951*, according to which Muslim personal law does not come within the definition of law used in Article 13 (2).
Constituent Assembly Debate On Article 44
Constituent Assembly Debate On Article 44

- 1. Hansa Mehta

- Favored Article 44 as a Fundamental Right.
- It should become fundamental right in the interest of gender justice.
Debate On Article 44

Hansa Mehta

Raj Kumari Amrit Kaur
K. M. Munshi, Favored in the interests of National Unity.
Ismail Sahib, pocker Sahib, Nazeruddin Ahmad opposed on the ground that it will be imposing majority customs on minority.
CONSTITUTION OF INDIA

• 1. India has granted special Rights to Minorities. (Cultural and Educational Rights).

• 2. Secularism is the basic principle and right to equality is the Golden thread.
3. Constitution recognized Freedom to Practice Religion as a fundamental right.

Though, not absolute subject to public order, decency and morality.
• Uniform Civil Code is a directive which means not enforceable automatically in the court of law but become enforceable by Parliament makes law to this effect.
5. Article 44-

Suggest that state shall endeavor to establish Uniform Civil Code throughout territory of India
Que. What does endeavor imply?

- 1. Constituent Assembly recognize that conditions are not conducive for the implementation.

- 2. Once conditions become favorable, it will be implemented.
Que. What does endeavor imply?

- 3. State has to take serious step to create such conditions so that ucc can be implemented.

- Development so far.
UCC could be implemented only when there is a growth of trust between the Majority and Minority.
Shah Bano Case

- It does not seem that either union government or state governments have taken sufficient steps.
- It has also been pointed out by the Supreme court in Shah Bano Case.
- What steps are taken by Supreme court so far
Que. What steps taken by Supreme Court?

• 1. Shah Bano Case 1985 Supreme court held that like Hindu women Muslims women also gets maintenance for life and not just for (iiddat Period).
Response of Government

• Answer.
  • Supreme court judgment was appreciated by the liberal Muslims as well as women organization

• But union government has overturned the judgement by bringing Muslim women protection on divorce right Act 1986.
Response of Government

- Answer.
  - It has restored the earlier position. i.e. Maintenance only for iddat period this Act was challenged in Daniel Latifi Case.
  - Supreme court upheld the validity of the Act 1986 but directed that the maintenance has to be fair and reasonable.
1. Either entire amount can be paid lump sum.

2. Can be given in installment also in Shamim Ara Case.

SC also gave the option.

(Allahabad High Court) has already invalidated the legality of talak-e-biddat in the recent case on triple talaq majority judgement of Supreme court again invalidated the legality of talaq I Biddat.
views Of Scholar
Feminist Scholar like Nivedita Menon believes that there is no need of comprehensive uniform civil code.
It is also not true that in India there has been no intervention by the state in Muslims personal laws.

The protection of Muslims women on divorce Act itself is a statutory law.

Gradually through Supreme court the process of reforms in Muslims laws have already started.

It seems that is best way in present context, various aspects have to be dealt in case to case basis.
• Muslim women can also seek justice under other Acts like domestic violence Act as a result of Daniel Latif Case the situation of Muslim women with respect to maintenance has become comparable to Hindu women.

• Before making comprehensive reforms we have to think about the yardsticks.
Prominent justice Flavia Agnes Suggests that UCC in itself is not a Silver Bullet.
• That will change the status of women among Muslims
• The point towards the situation prevailing among Hindus.
• Not only divorce rate is higher, polygamy is also more prevalent among Hindus.
• We should not think that Hindu laws are perfect in themselves
In many ways Muslim laws even with respect to the women are more Egalitarian than Hindus laws.

For e.g.... There is no legal status of second wife among Hindus only recently judiciary has recognize that even second wife should also get maintenance.

The legal status of both 2 wife is at par among the Muslims.

Muslims women also get "Mehar"
• Whereas... Hindu women do not have any such right.
• Even sex ratio is better among Muslims.
• Muslims laws were not reformed initially because at that time they were more advanced than Hindu laws.
According to Nivedita Menon, any reform should not be based on the arrogance of the superiority of Hindu laws and with the objective to stigmatize the Muslim laws for political purposes.
Constitutional Assembly does not sought unity in uniformity.

- India has known federal structure with 29 state and personal laws are in the concurrent list.
- Under schedule 6th as well as under art 371(a) [Nagaland] Constitution give scope for practice of laws according to customs Traditions of tribal communities.
Conclusion

It is to be noted that justice is the virtue of the social system and right not be subjected to political bargaining.

In the end reforms should be there but it is not enough to do right things.

It is also important to do right things in the right manner.
Role of Caste In Indian Politics
Role of caste in Indian Politics

• Introduction-
  • It is said that Indians do not cast their vote they vote their castes
According to Christophe Jaffrelot, caste forms the mosaic of Indian politics.
Que. What is Caste?

• Answer-
  • The term caste comes from Portugal word "Casta" which means.. Pure Blood or Race.
  • There is no exact translation available of the Indian word jati in any of the European language.
Contribution of M N Srinivas

- Answer:
  - He has challenged Louis Dumont understanding of caste.
  - According to Louis Dumont, caste and class are two different categories.
  - Caste is based on birth where class is based on worth/merit.
According to Louis Dumont, stratification of Indian society is based on the concept of purity and pollution.
2. Caste is rigid system wherever Class is open.
According to M N Srinivas-> Not much difference between caste and class, class is also rigid and based on birth.
He also suggested that mobility was permitted in caste system for which he gives the term Sanskritization (to become pure).

One of the most important contribution of Mn Srinivas and is the concept of dominant caste.
Features of Dominant Caste

1. Numerical Majority
2. Ownership of Land
Mostly OBC's are the dominant caste there are different dominant caste in different regions.
For Example

- Yadav in UP and Bihar,
- Marathas in Maharashtra,
- Reddy in Andhra,
- Lingayat in Karnataka.
Role of caste in Indian Politics

- Before independence - even before independence
- The basis of political parties have been Caste for Example.
  - Congress was Party of Brahmanis,
  - Republican Party was Party of Dalit,
  - DK Party of OBC's.