



# RESEARCH JOURNAL

Department of Political Science, The Assam Valley School

Summer Semester, 2021-22, Volume 3

# THINK TANK



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Department of Political Science

Summer Semester, 2021-22, Volume 3

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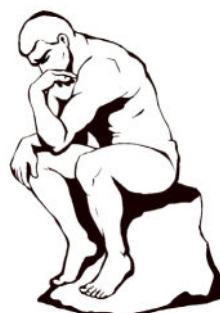


Political science is the study of politics and power that ranges from rural panchayats to international delegations. It necessitates comprehending political ideas, ideologies, institutions, policies, processes, and behavior, as well as groups, government, diplomacy, law, strategy, and war. Political Science is evident everywhere, whether it be in the Israel-Palestine issue or the military coup in Myanmar. It is always a pleasure for me to edit the 'Think Tank' which aims to bring across the critical analysis of students on various concerning issues. They say that 'Knowledge is power', and in Think Tank, this knowledge is always open to perceptual interpretation.

*Anushcka Joshi*  
*Student Editor*

## Dedication

They were, are and will continue to be the first and last line of defence for entire humanity for life. With folded hands and bowed heads, this edition of the Think Tank acknowledges the selfless services of the frontline workers, the entire medical community in providing life, hope and succor to those afflicted by the pandemic. Risking their personal life, facing even brutal assault, succumbing while on the line of duty, the medics as selfless Karma Yogis have been at work all through. From warding off the pandemic to bolstering the sagging morale due to this crisis, the contribution and the role of the medical community deserves recognition and gratitude. At Think Tank, this is our benign offering. May all of you continue to heal the world.



## A shot for life

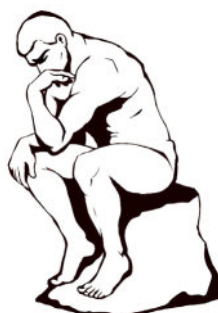
The Right to Life is a Fundamental and basic Human Right. This is undoubtedly the greatest crisis faced by humanity. With the proverbial silver bullet yet to emerge to quell the hydra mutated headed virus, hope lies in getting a shot at the arm. It is a relentless quest of resilience, painstaking research, clinical trials, efficacy measurements that a ray of light seeps in through the broken shafts of gloom and despair. The need to heal the world is now as the future beckons the direction to move ahead together with a spirit of solidarity. A reality check reveals the yawning gap between pious thinking and the stark indifference of the day. Monopoly production, over production, under production, hoarding, pre-booking exorbitant quantities, refusing emergency authorization, decentralized distribution, central procurement are some of the issues in the name of national pride and national interest threatening the very existence of mankind. Is this not time enough to mend the fences? Are we waiting for the Biblical deluge to understand that we are all **not on the same boat**? Resilience and hope are proven antidotes against hopelessness. Is there enough for everybody? Will there be enough for everybody? Will Malthus be validated? The way things are going even the most die-hard optimist will have a hard time hoping against hope. The North and the South exhibits glaring disparities. The South need those vaccines at the earliest and the North need to reciprocate. Funding for research and scaling up production is vital for any semblance of benefit for all to be effective. Is the State loosening enough the strings of its funding purse? Top health experts are vouching the fact that vaccination has to happen very quickly. Acclaimed health expert, Dr. Anthony Fauci, has been advocating the same. In India, as per available government data till May 2021, the private sector could utilize only 17 percent of its allotted quota

of vaccines. As attempts are made by the Union and the states to push for a vaccination overdrive, it is apparent that it will be a frantic raise against time.



In the quagmire of rules, procedures, negotiations floating corpses in India grab the momentary headlines. The apex court has to step in and give a reality check on what needs to be done as the union awakes from its stupor. As the Bhagvad Gita states “Having abandoned ego, force, arrogance, lust, anger and greed, one becomes worthy of being identified with the Supreme Being”. Human beings cannot abdicate their base instincts and if this is the case, heavenly angels from above cannot be expected to shower from their divine quiver arrows of love, hope and happiness. Experience augments wisdom and it is time for all to learn to do what is the need of the hour. The alternative is the wishful thinking that this too shall pass and tell then like staunch Epicureans, let us all eat, and make merry in huge numbers for tomorrow we shall definitely die. So what if the virus does not move, humans as transporters are only too happy to move it at their own peril in blissful ignorance.

*Thajeb Ali Hazarika*





# GEORGE FLOYD

*[A case which shook the world and highlighted brutality of the law-enforcers, Ojas delves deep into the case and its impact on the society in USA.]*

The whole world knows the story by now. A black American, suspected for using counterfeit bills, supposedly murdered by an apathetic white Police Officer. George Floyd was the victim, and his name will send ripples flowing through the ocean that is human existence.

The exact date when this saga originated is May 25, 2020, when police officer Derek Chauvin knelt on George Floyd's neck for 9 minutes and 29 seconds, cutting off his airways, and ultimately leading to his untimely death. There were other officers standing by, preventing people from interfering in this medieval way of punishment, namely J. Alexander Keung, Thomas Lane and Tou Thao. Officer Chauvin did not stop kneeling on the suspect's neck until paramedics arrived, which many suspect is the most horrendous aspect of George Floyd's death. Even after the man uttered those famous words- "I can't breathe" and many variations of that repeatedly, even after expressing concern for his life, Officer Chauvin showed apathy and no remorse.

The autopsy report ruled it a homicide, and further trials led to all four officers who were on the scene being dismissed and a wrongful death lawsuit settled outside court. The State of Minneapolis

agreed to pay the hefty sum of 27 Million US Dollars to George Floyd's family. However, while this whole case seems relatively simple, it actually is the culmination of a decades-long debate and conflict between police officers and black men, even white men in some cases. George Floyd's death was like the tipping point; the straw that broke the camel's already fractured back. This case might seem small; but was the stone that caused the tsunami.

Days after news of his death and after the autopsy report got out, the streets of the USA were literally on fire. People of all ethnicities, mainly black people (African-Americans) for obvious reasons, took to the streets in violent fashion. Cars were brunt, stores looted, statues of oppressive white males demolished or vandalized, and a general call for racial equality in one of the most controversial countries to ever exist. These protesters had a battle cry, similar to India's 'do or die'- 'Black lives matter.' This simple yet meaningful slogan became the rally of these young people as they left their homes, braving the virus and protesting against the oppression and racial discrimination.

The above paragraphs just highlight the events in a brief manner, but let's take a closer



look at what happened, and try to dissect it.

After the memorial was placed outside Cup Foods (the store from which George Floyd bought cigarettes with counterfeit money) it was common knowledge that a storm was brewing in the hearts of young Americans. Mere days after demonstrators held down an intersection near the store, stating to not leave until their demands of ant-racism and property tax laws were met, the protests spread like wildfire. Not just in the USA, but throughout the world.

You see, racism is one of the few defining aspects of human history, alongside with religion, violence and politics. It is a very sensitive topic, and has its roots centered in oppressed countries like those in Africa, or Asia. Those African Americans or African-Englishmen or any dark-skinned individual living abroad, all have relations who were slaves. Maybe it was their uncles, their grandparents, their mothers, or even their cousins. When they attained freedom, it was common knowledge that throughout the twentieth-century, they were still not treated equally by some sects of society.

However, a new millennium dawned, and with it a new generation of people with entirely different mindsets than their parents, brought with it a new fad on anti-racism, racial equality, and general calls for more equality for all people of society, even the sects such as LGBTQ+. What led to this movement was not only the death of George Floyd, it was the manifestation of general public opinion; the opinion being that Police Officers and other 'white men in power' were treating the African American people as sub-par and unequal. There have been many documented cases of police brutality against black people before and after the death of George Floyd, but his death was the catalyst to the protests that took place around the world.

It has become a truly worldwide issue not just because of the crucial factor that race played, but because of the issue of Police Brutality. Police brutality is an age-old long issue that plagues many countries, and there have been minor incidents and subsequent protests in several important countries, but the pure influence of the USA and the internet is what tipped the dominoes, causing the spread of these protests across the world, such as in the UK, where the movement was fierce, statues being torn down and streets having to be shut down.

Another aspect that people seem to forget or overlook about this whole entire saga is the amount of misinformation that has

arisen, not only from internet trolls, but from whole government parties themselves. A further look into American political science will tell you a simple story; whatever The Democrats do, say, support or believe in, the Republicans will have countering ideologies, and vice versa.

The George Floyd case is no exception, as Democratic President Joe Biden went to his family members and consoled them during his funeral proceedings. Republican Candidate Winnie Headstrong went so far as to say the whole ordeal was 'deep-faked'- a new technology normally used in the internet for memes and jokes. However, there have been more sinister uses of this technology, but it is common knowledge that the case is very much real. A lot of people from the Republican party have supported this claim, stating that the real George Floyd died in 2016 due to drug related issues. These individuals are hosts Tucker Carlson, Candace Owens and Texan Agricultural minister Sid Minister, alongside fellow party member Cynthia Brehm.

This is a recurring theme in party politics in the United States, but this whole ordeal just goes to show the lengths that some people will go to remain 'loyal' to their political ideologies and party allegiances. The big two parties' politics have served no good and have infect added fuel to the fire in case slice these time and time again. The protests and the fake news surrounding the murder of George Floyd have just revealed another aspect of party politics that the United States of America should work to eliminate from their country.

Whilst deep-fakes are a recurring issue in modern-day politics, experts have concluded that the video that won the 2020 PEN/Benson courage award (the recipient being 17-year-old student Darnella Frazier) is indeed not a deep fake, and a hundred percent legitimate. It is difficult to pull off a believable deep fake with no background in editing, and the student had none. However, conspiracy theories about his death and subsequent events still float around the pages of the internet, and the thoughts still linger in the minds of many Republicans who are focused on dethroning democratic president Joe Biden. It's just another day and a pretty normal occurrence in USA party politics, and such partisanship should be eliminated for better governance.

While there are certainly valid criticisms to the skeptic people about this whole movement, similarly there is validity of that skepticism.

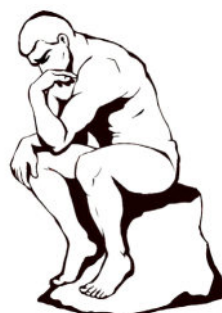




Image source: <https://www.du.edu/news/research-why-was-black-lives-matter-so-successful>

Many people who do not like the Black Lives Matter movement have taken a common route; pointing out the fact that many movements (taking place in an astronomical 2,000 cities across the USA and worldwide) are in fact violent, and lead to loss of property and even in certain cases, life.

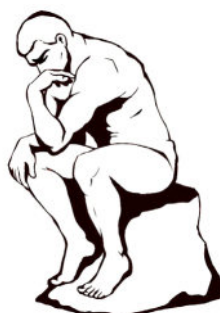
The above statement is true. Many cities in USA (12 to be exact) had to enforce curfews because of the protests, as various cars were lit on fire and glass shards on pavements as people broke into businesses small and big, looting and escaping, all in the name of Black Lives Matter.

What these people fail to notice is that looting businesses and stealing from them is not going to help the cause of George Floyd or not going to help racial equality. However deranged some people may be, that's not the main reason for looting and breaking in; many 'protestors' use the opportunity of public favor and general chaos to get their pickings in. Especially because of the COVID-19 pandemic, where prices of certain goods are skyrocketing. These protestors use the Black Lives Movement as a sort of smoke shield to continue their looting, and use the general chaos to break in and steal items such as televisions, clothes and expensive jewelry. It can be viewed as a sort of

mass heist.

The impact of the looting has been felt across America. The looting has not aided the plummeting of local businesses due to the pandemic, and it actually helped accelerate the same. The people are indiscriminate to what businesses they choose to loot; as showcased by a viral video where an elderly black man cried out in anguish as his business was looted during some protests that took place the night before. In other cases, some people have taken to arming themselves and protecting their businesses, much like the L.A riots. In fact, the Black Lives Matter of 2020 and the L.A Burning of 1992 show a lot of similarities in this regard.

The outcry against this looting is what prompted the government to impose curfews and police retaliation; some cities have even called in the national guard to help reinforce law and order. It's a natural reaction, but it simply goes to show how intense and fierce the scale of this movement is. In the coming days following George's death, the movement spread across the world, and so has spread looting and burning, which is a grave thing that should be stopped. The protests and violence are common knowledge, but what people lack in knowledge is the actual conviction of the four officers who were involved, especially the acting officer, Derek Chauvin.



Police Officer Derek Chauvin was found guilty of all charges, namely second-degree unintentional murder, third-degree murder and second-degree manslaughter. Quite an extensive list of charges to be found guilty of, but the general public opinion was a positive one. As of

now, Officer Chauvin is still in prison, waiting for a further sentence. When we talk about Chauvin, we also have to talk about his three other partners, who stood by and did nothing. As is the law of the land in many countries (the USA being no exception) you can still be found guilty of being a bystander. The three men who aided and stood by Officer Chauvin were Alexander Keung, Thomas Lane and Tou Thao.

What's notable is that Officer Chauvin actually was responsible for the training of J. Keung, and Thomas Lane and J. Keung were in their first week as actual patrol officers. Quite an experience on your first week out. However, Keung and Lane were released quickly; their attorneys stating that they warned head officer Chauvin about the dangers of the stance and that was all that was required by them by Minnesota state federal law.

The last member of this forlorn group, Tou Thao, has been charged six separate times for police brutality by the people of Minnesota. One victim described a case where he asserted that Officer Thao handcuffed him without cause before beating him, punching him, and kneeling him in the face, breaking his teeth. The resulting lawsuit was settled for 25,000 US\$. With such cases under his belt, it's no surprise that Thao prevented bystanders from interfering in what Officer Chauvin was doing. He was the last of the three partners to be released.

The big question is this; was the verdict correct? Was it an actual case of police brutality and racism, that has gone virtually unpunished for the last decade or so, or was it an unfortunate accident that wouldn't repeat itself when the officers were given a chance? Or was the verdict itself too harsh on a guy just trying to do his job? The answer is simple enough if you look at the facts and the complicated history between African Americans and police. It was only a matter of time before such a case finally caught steam, and blew up the American Public.

So, what have we learnt from the George Floyd case? The questions we ask ourselves after this whole thing has relatively cooled down will illuminate the steps we take forward regarding this sensitive issue. In the immediate aftermath of the case was not pretty; with the killing of Breonna Taylor, for example, stirred a whole new controversy within the fractured streets of America. Do the police need defunding? The answer is no. In many countries, there has been a general

increase in drug-related crimes, and after the pandemic, these crimes will only grow up as police will struggle to return to their normal duties and patrols. The answer lies in the selection process itself. It has been studied and criticized that while doctors who save lives in the hospital have to undergo six to seven years of intensive training, Police Officers who are tasked with saving lives in the streets only go through six months. Another problem that has been brought up by these two cases is that racism in America and consequentially the world, especially by people in power (pale and dark-skinned alike) has not been completely eliminated, and we should not hesitate to deepen its decline.



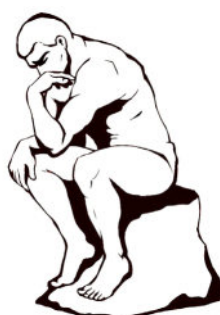
**A MURAL OF FLOYD**

**Image Source:** <https://www.newyorker.com/news/our-columnists/after-the-killing-of-george-floyd-fury-at-america-and-its-values-spreads-globally/>

As many people have said before, humanity's greatest strength, the reason we evolved from tree-swinging orangutans to flying to the moon, is our strength in unity and our strength to solve problems together. The Black Lives Matter has a positive message, but a terrible method of execution. We should focus on more wholesome approaches to deal with this sensitive issue, and the methods we suggest now will undoubtedly determine our success as a species in the future.

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# Rumbling from a Serene Island

*[A series of measures by Praful Patel, Administrator of Lakshadweep has raised many eye brows. With the charge of pushing forward a rightist Hindutva agenda, Irfan Hussain investigates the spate of measures in this serene island.]*

**P**raful Khoda Patel is an Indian politician who is currently the Administrator of Union Territory of Dadra and Nagar Haveli and Daman and Diu and Union Territory of Lakshadweep. Following his appointment as the Administrator of Lakshadweep in December 2020, Patel's administration ended mandatory quarantine for those entering the territory, and allowed anyone with a negative RT-PCR test to travel to the islands. The territory had its first COVID-19 case on 18 January 2021, and total cases had reached 7300 by the end of May. Mohammed Faizal P. P., Member of Parliament for Lakshadweep, attributed the rise in cases to the loosening of travel restrictions; the administration said that the surge was instead caused by the emergence of a more virulent SARS-CoV-2 strain, resumption of economic activity, and an increase in cases in Kerala, which is the territory's main link to mainland India.

Patel has also suggested policy changes such as instructing port authorities to cut ties with Beypore port and Cochin Port in Kerala and divert all maritime exchanges to New Mangalore Port. All dairy farms on the islands, run by the Animal Husbandry Department, were ordered to be shut down, with the cattle to be auctioned off, and dairy products instead to be imported from Gujarat-based Amul.



Patel's administration also lifted alcohol restrictions, and banned beef and removed meat from the school Midday Meal Scheme. Many locals accused the administration of implementing a Hindutva agenda. Patel's administration also demolished fishermen's coastal sheds, citing violations of the Coast Guard Act. The Administration has argued that these policies are still in pipeline and yet to be implemented.

Opposition political parties such as the Indian National Congress and Communist Party of India have come out in protest. Some local members of Bhartiya Janata Party in Lakshadweep also voiced their criticism against Patel's policies. Following the controversy, the All India Congress Committee submitted a request to the Lakshadweep administration seeking permission to visit the island, but their request was rejected citing the COVID-19 situation in the island.

Patel's reforms and changes have led to many protests and backlashes as people believe that these changes pose a major threat to Lakshadweep's cultural and heritage. Among those who joined the backlash against Patel, are celebrities like Malayalam movie actor Prithviraj Sukumaran to nearly every parliamentarian from Kerala. News channels in Kerala are hosting prime-time debates on the topic. On Twitter Spaces,



having hours-long conversations not just about the administrator's acts, but about the complicated identity of being an islander.



**PRAFUL KHODA PATEL**

**Image Source:** <https://www.newsclick.in/why-lakshadweep-administrator-praful-patel-proposed-reforms-echo-gujarat-laws>

The islanders feel that the new measures would destroy their unique traditions and also damage the cultural diversity in the island, which they consider with high regard. They also alleged that there was no public consultation held before proposing the changes.

They take pride in their traditions and consider protecting their environment with utmost responsibility. The islands are protected under special provisions like ban on sale of liquor, not allow outsiders to buy land in the islands and non-residents cannot visit the islands without permission from the administration.

**Ban on Beef:** Patel closed down the dairy farms being run by the Lakshadweep Animal Husbandry department. In the name of the draft law “Animal Preservation”, the authorities intend to ban slaughter, purchase and sale of beef and beef products. Patel directed for cutting down non-vegetarian items from the menu of mid-day meals in schools too.

The islanders said that they do not get good vegetables in the island like in mainland and that non-vegetarian food and beef are a part of their culture.

**Panchayat Law:** The new administrator has also proposed for a new law which makes candidates having more than two children

ineligible to contest the panchayat elections. The Opposition parties said that this rule was aimed at removing many candidates from the election fray.

Netizens wondered the need for such a law when the total fertility rate of the island was just 1.6, which is below the upper limit of 2.

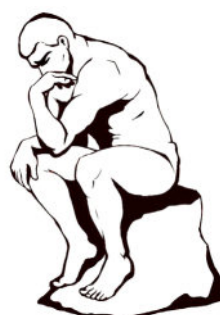


**Image Source:** <https://www.theguardian.com/global-development/2021/jun/04/trouble-in-paradise-indian-islands-face-brazen-new-laws-and-covid-crisis>

**Conclusion:** The situation in Lakshadweep is quite serious as it is posing a threat to the life and culture of the inhabitants of the islands. Over 36 retired higher officials wrote letters to Modi to look into the new draft laws and finalise a development plan only after consulting the people there.

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# The string of pearls theory

## A Chinese Dragnet

*[The expansionist Dragon has been flexing its fangs with the aim of choking the influence of India, its immediate and rising power. Donovan Figg analyzes the geo-political scenario as China seeks to extend its zone of influence and its ramifications for India.]*

Somewhere in the Indian Ocean, a Chinese freighter deviates from its charted course by a lone, single degree. This seemingly mundane event has the capability to trigger World War III.

The butterfly effect theory is to blame: a butterfly flapping its wings in Australia may lead to the formation of a hurricane in the Bay of Bengal. This statement has already deposited us at the door of Chaos Theory -- a discussion for another day.

*“You could not remove a single grain of sand from its place without thereby ... changing something throughout all parts of the immeasurable whole.”*

— Fichte, The Vocation of Man (1800)

That quote sums up the butterfly effect theory pretty neatly: small actions can have massive consequences: cue our ship deviation.

The String of Pearls Theory is based upon two ever-changing factors: Pakistan's CPEC and China's OBOR. CPEC is the China-Pakistan Economic corridor -- worth USD 47,000,000,000 at inception, it is valued today at USD 62,500,000,000.



**OBOR is China's One Belt One Road Initiative, primarily dealing with foreign debt funds and overseas investment.** Back to the ditzy Chinese transport ship: if it deviates from its course in international waters, India has the right to consider it an act of aggression.

**The issue under the hammer today is that China has effective control of most of the major SLOC's in the Indian Ocean. A SLOC is a "Sea Line of Control", and the controlling authority has the right to shut it in times of war.**

**Though this isn't mentioned anywhere, China could (legally) cut off India's copper ore and mineral fuel supply in case of a conflict escalation. This has led multiple researchers to conclude that China has a dragnet around India as far as the South China Sea and Indian Ocean are concerned.**

China has also outlined plans to develop a state-of-the-art overseas port in the Gwadar region of Pakistan. Why is this a problem?

If China stations just her older carrier, the ex-kuznetsov class Liaoning there, it would put chinese squadrons in striking distance of India's main western aerial defence stations: Jodhpur and Jamnagar.



## ONE BELT ON ROAD

**Image Source:** <https://www.vectorstock.com/royalty-free-vector/obor-china-one-belt-one-road-initiative-design-vector-27291520>

.....  
**“You could not remove a single grain of sand from its place without thereby ... changing something throughout all parts of the immeasurable whole.”**  
—Fichte, *The Vocation of Man* (1800)”

The Chinese Liaoning has a main squadron of Shenyang J-15s, which have a strike range of 3500 km. Jodhpur is 1080 km from Gwadar -- leaving more than 40% of their range unused in a potential strike.

Add to this the fact that Jodhpur has only outdated Sukhoi Su-30 and MiG-27 fighters, a chinese attack could only be repelled with deployment from the INS Vikramaditya (currently patrolling the area around Karwar, Karnataka).

Also, Jamnagar’s Jaguar squadron does not even pose a threat to the Shenyang J-15s the combat range of a SEPECAT Jaguar hovers around the 1500 hi-lo-hi mark.

The speed difference is also notable: J-15s have a top speed of 2500 kmph whereas SEPECATs barely push out 1400 kmph on good days. Significantly, China’s deployment of the Liaoning in Gwadar would give the Chinese anti-submarine capability in the area, due to the 5 Changhe Z-18 anti-submarine recon helicopters on board.

According to the String Of Pearls Theory, China can close their dragnet at any moment once the CPEC is properly established. A glimmer of hope for now is that Gwadar is not yet a deep water port: ergo the 67500

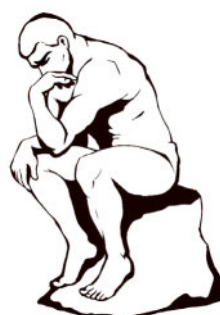
tonne displacement warship cannot currently sidle into Gwadar.

India has also stepped up their game by assisting the development of the Chabahar port in Iran. This would be the main counter to Gwadar. Additionally, India is also developing the following ports:

Sabang, Indonesia: Defend The Andamans, Strait of Malacca. Sittwe, Myanmar: Covering mineral trade routes. Mongla/ Chittagong, Bangladesh: RDF teams to defend their part of the bay of Bengal. Changi Naval Base, Singapore: Recon the Strait of Malacca.

A new base in the Seychelles is also underway and India has signed agreements with Oman for use of their Naval/ Air bases. This would be significant in defending the Strait of Hormuz, through which 30% of global oil exports pass.

Long story short, China has developed a permanent military presence in the Indian Ocean and Arabian Sea. Coupled with their territorial infringements along the LoC’s to the north/ northeast and given the amount of border disputes China has with other countries, one can only wonder at what their next move will be.





**RE-EXAMINING FISCAL FEDERALISM  
WITH SPECIAL REFERENCE**

**TO THE STATE OF  
WEST BENGAL  
AND THE  
Indian  
Union**

*[Fiscal Federalism has been a flashpoint in India involving the Union and the states. Yashodhara scrutinizes the case of West Bengal and reasons for its acrimony with the Union.]*

**F**ederalism can be defined as the division of power between a central authority and various constituent units of a country. Usually Federalism is the most relevant example of a country being bound together through sharing of power.

Taking in the unique case of India, it is termed a federal country however in the Indian Constitution India is referred as a Union of States. Although it did not use the word federation, the Indian Union is based on the principles of federalism. So, our federalist form of government has several advantages, such as protecting us

from tyranny, dispersing power, increasing citizen participation, and increasing effectiveness, and disadvantages, such as supposedly protecting slavery and segregation, increasing inequalities between states, states blocking national policies, and racing to the bottom in terms of how they treat their citizens. Do the advantages outweigh the disadvantages? I believe so.

With that being said I come to the issue of Fiscal federalism. Fiscal federalism refers to the financial relations between the country's federal Government system and other units of government.



In our Constitution, the Finance Commission was devised as a mechanism for providing predictability in the fiscal federal relations for 5 years and flexibility to review and revise the relations generally every 5 years only. Planning Commission was an innovation of Union Government that gave flexibility to accommodate fiscal compulsions of sociopolitical developments from time to time. The Finance Commissions, 13 of them and the Planning Commission determined the federal fiscal relations for well over six decades since independence, till recently with the abolition of Planning Commission in August, 2014, the report of 14th Finance Commission in December, 2014 and establishment of NITI Aayog (National Institute for Transforming India) as part of 'cooperative federalism' in January 2015 constitute significant developments. Finance Commissions have recognised the fact that budgetary situation of the Union Government had direct bearing on state finances, but could not impose any conditions for reform of finances of the Union Government nor could evolve a system under which the Union Government adhered to its commitment to fiscal responsibility. **In the current federal fiscal structure of India, revenue account transfers from the Union to the States constitute more than one-third of the total revenue resources of the States, and hence if Union's revenue performance declines, States also get affected.** The creation of incentive fund suggested by the 11th Finance Commission, the conditional transfers and debt relief linked to fiscal responsibilities of States by the 12th Finance Commission and, incentive grants recommended by 13th Finance Commission were instrumental in bringing about prudent management of State finances. Currently, since challenges relate to Union finances, the 14th Finance Commission emphasized the importance of fiscal councils. A weak fiscal position of the Union not only has bearing on macro-economic management and stability, but also impacts State finances. NITI Aayog has an opportunity and, indeed, an obligation to contribute to fiscal responsibility in both Union and State Governments consistent with developmental priorities and sound fiscal federal relations. NITI Aayog is in a better position to contribute to these objectives since it is a continuing body and plays a critical, though advisory, role in regard to Union finances, State finances and transfers from Union to States on a continuous basis.

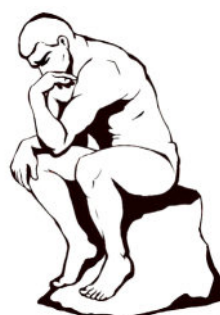
**The introduction of the GST is a demonstrative example of the working of cooperative fiscal federalism.** However, it is questionable as to how far this conforms to actual practice. Under article 279A of the

Indian Constitution, two-thirds of the voting rights belong to the states while the centre has one-third voting rights at the GST Council. Nonetheless, passing a resolution required three fourths majority. In effect, this confers a veto power for the centre, even when states jointly propose a change. The states should be able to adopt a change in their tax structure without the centre's consent, given that each state is governed differently based on local legislations.

### Case study: West Bengal

West Bengal's troubled relation with the Union government is known to all. Call it Didi's game plan or simply a fight for power; it goes on a deeper level. We revisit where it all started.

West Bengal is a unique state of the Indian federation. Politically it is highly conscious; it has always hovered around political radicalism since the late 19th century. The political climate of West Bengal reflects fierce regional pride, the radical ways of its youth, it represents an admixture of after effects of the partition of West Bengal in 1905, the Swadeshi movements, the shifting of India's capital from Calcutta to New Delhi in 1912, the great Bengal famine of the early 1940s, the second partition of Bengal in 1947, the huge influx of refugees from East Pakistan, the emergence of Communist Party in general and that of the Communist Party Of India Marxist (CPIM), in particular and later on the continuance of the coalition government formed by it in the State since 1977. It is interesting to note that even before the CPIM came into power during the Congress rule (1947-67) and particularly during the regime of B.C.Roy, at times a certain tension was generated in Union-State relation. It was not however allowed to spill over into agitational politics. **In this connection Roy's memoranda before the Third Finance Commission is quite revealing.** Even when the Union adopted tough posture in the face of a State demand, Roy did not yield. He sought redress within the constitutional framework. **Earlier also Roy had criticized the recommendations of the First Finance Commission with respect to the distribution of the divisible pool of the proceeds of centrally levied taxes between the Centre and the States. Since then Union-State tensions have always been a part of West Bengal's political history.** However they were not as strained as they are in present times i.e. Mamata and Modi's tussle for the crown. Let us look at the events that led up to it.





**Image Source:** <https://economictimes.indiatimes.com/mamata-banerjee-invites-pm-narendra-modi-for-a-debate/articleshows/68715373.cms>

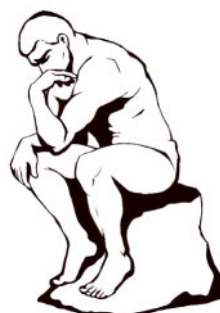
### 1. The start of a loyal enmity:

Where Modi once respected Mamata for “working hard” in West Bengal, today he claims she is a “speedbreaker” in the path of the state’s development. Banerjee, meanwhile, had once praised how Gujarat was being “nurtured” under his rule but now feels Modi has done nothing for the country. Meanwhile, the RSS has, in recent Organiser editorials, termed her “frustrated” and “tyrannical”. The leader they once termed honest was targeted in a February article for being a “suspect” in the Saradha Ponzi scam. **It was with the 2016 assembly election in West Bengal that the sharp downward spiral in the Modi-Banerjee equation began. In that election, the BJP polled 55 lakh votes with a 10.2 per cent vote share.** The 2014 Lok Sabha polls saw the BJP manage a 17 per cent vote share in the state, where it wasn’t known to be a major player, and Banerjee’s worries began then. But it was in 2016 that the BJP made it clear West Bengal was a key element in its electoral ambitions. In a rally before the state polls, towards the end of March 2016, Modi gave a combative, hour-long speech and took the Banerjee-led TMC government head on. He attacked the CM directly, accusing her government of corruption and extortion, and mentioning the Saradha scam and Narada bribery sting. At yet

another rally in April, Modi said the Kolkata flyover tragedy, in which 26 people were killed, was “God’s message to people to save Bengal from the Trinamool Congress”. In a bypoll for an assembly seat in April 2017, the BJP rose sharply to the second position with over 30 per cent of the vote share, adding to the TMC’s insecurities. In the May 2018 panchayat polls in the state, the BJP finished a distant second to the TMC, but surged past the other traditional players in the state — the Left and the Congress. The bitterness continued to brew, with top BJP and TMC leaders taking each other on, even as party workers clashed on the ground. The BJP and Modi’s direct attacks on Banerjee over Saradha and Narada only added fuel to an already blazing political fire.

### 2. The current situation:

The COVID-19 pandemic has shown that there is hardly a single nation that is not in some way dependent on others, either for raw materials, labour services, or imports of finished goods. The post-pandemic world would require emphasis on sub regionalism for strengthening local economies. **For a country as large and diverse as India, it is common to find state governments—like that of West Bengal—that differ with the central government. To be sure, the kind of federalism that exists in India will be the key to the evolution of para diplomacy in different parts of the country.** Let us analyse some of the fiscal federal situations currently being faced in West Bengal.



### • The Budget for the financial year 2021

In a letter to the Union finance minister ahead of the Central Budget,

West Bengal finance minister Amit Mitra, one of the most vocal among state finance ministers for the cause of cooperative fiscal federalism, has demanded that the Union borrow an additional Rs 72,000 crore under the special window to make good the states' estimated collective GST revenue shortfall in FY21, in addition to Rs 1.1 lakh crore being raised already. Mitra also asked Sitharaman not to cut back on the tax devolution to states from the divisible pool, and called for removal of the reforms conditions attached to the 1% (of GSDP) extra **borrowing window accorded to states in FY21. The lower devolution to the state has caused severe strain on state's finances at a critical time when Covid-19 induced lockdown already resulted in shrinking state revenues and increasing expenditure on healthcare and welfare schemes to provide relief to the poor.**

#### • The PM funds for the cyclone Yaas

**West Bengal Chief Minister Mamata Banerjee, in a virtual meeting with Union Home Minister Amit Shah over cyclone Yaas, had criticised the Centre over alleged discrimination in giving financial assistance to states. It is important to note that West Bengal has more population density than Andhra Pradesh or Odisha and it is the latter two states that have been sanctioned greater Central grant of Rs 600 crores each than the former State which is getting Rs 400 crore for handling the cyclone.** Yet again the Union fails to provide a reasonable response to the query by stating that the issue would be discussed later and that the level of financial assistance had been decided on solid scientific base. Revisiting the case of last year, **West Bengal had also not received sufficient funds from the Centre to handle the cyclone Amphan.**

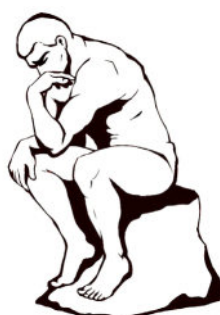
## CONCLUSION

While India is acting East, West Bengal chooses to go in its own direction. After the 2021 Assembly Poll elections we could see a plethora of events between West Bengal and the Centre. From the clash of powers in Nandigram to the quite recent case of Alapan Bandyopadhyay to the unequal distribution of funds for the Yaas cyclone, West Bengal never yields to the whims of the Union government. Considering the role of Fiscal Federalism in West Bengal, it does not shy away from asking for equal fund shares or calling out the Modi government on bias. In light of the recent changes, it appears that India has deviated rather far from what cooperative federalism envisages. One can only hope that these changes bring forward the absence of a framework for non-Finance

Commission grants. Given the replacement of the Planning Commission, there is more clarity necessitated in relation to the treatment of grants outside the Commission's purview. States need to be able to fulfill their promises upon which they were democratically elected; otherwise this can have detrimental effects not just on the fiscal federalism principles, but on the social and economic state by and large. For this, the division of direct and indirect taxes needs to be considered, especially after the implementation of the GST.

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## POLITICS OF FAITH AT THE COST OF FAITH AND THE IMPENDING HAZARDS

*[There is often more than meets the eye where politics and religion are concerned. Faith-based initiatives are no exception. Despite the good intentions of some, faith-based policies do not always create significant new programs to help those in need. Instead these initiatives are often very powerful political symbols used to reshape religious-state relationships and alter the distribution of political power, creating a system in which neither the greatest hopes of the supporters, nor the greatest fears of the opponents have been] realized.]*



### A Brief Historical Perspective:

**R**ight wing Hindu nationalism has always upheld one religion, one culture and one nation. Being numerically small, the upper castes needed mass support or lower-caste support to come to power in the “one man, one vote” system. In order to regain political supremacy, they played the religious card to mobilize the masses. On the one hand, they tried to homogenize the differences within Hinduism, and on the other, they declared war against Muslims and Christians. The latter were defined as the ‘other’ enemy, outsiders, unpatriotic and were to be eliminated in order to realize the golden age of Hinduism in India. Besides the R.S.S., multiple other organizations came into being, such as the Vishwa Hindu Parishad (V.H.P.), the Bajrang Dal (B.D.), the Hindu Jagran Manch (H.J.M.) and others,



under the umbrella of the Sangh Parivar with the Bharatiya Janata Party (B.J.P.) as its political organ. They all proclaimed that Hinduism was in danger. Accordingly, the birthplace of Ram in the city of Ayobhya in the northeast state of Uttar Pradesh had to be liberated from the Muslims, who had built a mosque over it hundreds of years ago. This was just the beginning to a long age of political rule based on faith in India.

In 1992 the demolition of the mosque known as Babri Masjid was preceded by rath yatras (car processions decked up as chariots drawing inspiration from the Hindu epics) made by the Hindu nationalist leaders across the country to mobilize the masses, which led to the death of scores of Muslims in the ensuing riots. More riots followed the demolition of the mosque itself. In Bombay alone rioting took the lives of



900 Muslims. However, the general elections in 1994 saw the results of religion-based political mobilization. The Hindu nationalists captured the highest number of seats they had ever won in the parliament. It was almost as if the party rode in on the dead bodies of Muslims.

In 1997 the Hindu nationalists turned the heat up on Christians in India, particularly in Gujarat State, where nationalists were in power. There were only 50 cases of registered atrocities against Christians during the first 48 years of independence. But between 1997 and 1998 there were 500 cases, a geometrical rise during two years. Christian missionary personnel were accused of converting tribals (indigenous people) and the lower castes by force or fraud, though no cases of this were cited to substantiate the allegation. Christian churches were desecrated or burnt, sacred festivals were disrupted, Bibles were torn and trampled upon, and priests and nuns were killed or raped.

This toxic politics of faith only keeps growing, under the disguise of governance. India takes great pride in its diversity and pluralism. The creation of the Islamic nation of Pakistan during independence may have prompted India to declare itself a secular republic, but the moments preceding the division had already given birth to a fringe group of Hindu extremists espousing an ideology called Hindutva.

**Hindutva's main exponent Vinayak Damodar Savarkar conflated janmabhoomi (motherland) and punyabhoomi (holy land), propagating the establishment of an exclusive Hindu nation state.**

While usurping Jainism, Sikhism and Buddhism as part of Hinduism, the ideology rejects Christianity and Islam as alien and foreign. Fanning false insecurities among the majority community about non-Indic religions, groups like RSS have sharply communalized large sections of society. As a result, they have directly been responsible for plenty of violence and terrorist activity, including the assassination of Mahatma Gandhi in 1948.

In 2002, BJP's Narendra Modi, the then Chief Minister of the western state of Gujarat, presided over one of the bloodiest chapters in the history of independent India. When a train with Hindu pilgrims caught fire, saffron-clad mobs reacted by destroying homes and property of Muslims, killing between 790-2000 and leaving thousands injured and homeless. Several journalistic investigations and credible reports show that the complicit state

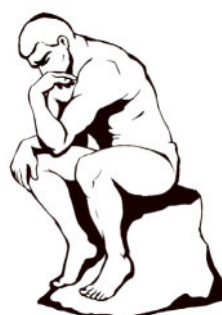
allowed, and even encouraged this rioting for three days. Till today, victim-survivors have been struggling for justice, and the same Modi at the helm neither expedites justice nor expresses regret for the grave losses.

In this context, the emergence of the BJP and its Hindutva poster boy Narendra Modi as the prime ministerial candidate for the world's biggest and most diverse democracy was rather worrying. He comes in a context of extremely poor governance and shameful corruption from the ruling UPA coalition government headed by the Congress party, and now sways many frustrated voters with the words "With Modi, good days will come." However, he also comes from the context of Hindu extremism. It is telling that Modi's prime ministerial candidate was announced by the RSS, instead of the BJP. The convergence of the two has visibly begun, which does not portend well for a country with 20 percent non-Hindus. The tell tale direction is heading towards a heavy saffron wave.

It is important therefore to analyze how Modi's brand of Hindutva, now coined as 'Moditva', violates human rights in a pluralistic India:

- Hindutva at the heart of the development bubble: Hindutva has, as have most fundamentalist movements in the world, consistently hankered for both economic and political power. Modi ensures that the fruits of economic power reach those who matter in the nexus, like big businesses, affluent Gujarati diaspora in US and UK, and vested interests. In his 12 years reign in Gujarat, a select few have amassed huge wealth in a criminal quid pro quo and are his chief propagandists. No allegations of communalism or questions of secularism are ever tackled. Instead, they are couched in a development package. In Gujarat, school textbooks project Adolf Hitler as a strong administrator but make no mention of the Holocaust.
- Growth of propaganda: Virulent propaganda from Modi's PR firms makes sure Indians see and hear him everywhere, on huge hoardings, on hand-outs, in newspaper advertisements, on driving application forms, on radio and television. Modi's spin-doctors are able to turn any narrative into believable propositions.

- Sideline Minorities: Not a single Muslim candidate was given a BJP ticket to contest in the 2012 election. Modi did do a Sadbhavna yatra, or tolerance tour in the state but minority community leaders were



forced to attend these make-believe shows. The photos were then used by his propagandists to prove that their leader no longer indulges in minority-bashing. The hypocrisy is undeniable when, in an interview to Reuters, Modi made an allusion to Muslim deaths in the 2002 riots as “a puppy” coming under a car in a highway.

- Authoritarianism: Modi and his loyalists have been doing their best to control the judiciary, the police, media and education. The political influence not only tries to exonerate guilty friends and supporters, it also has communal undertones. For instance, 4000 riot-related cases were simply closed by the state police. And even after the Supreme Court ordered a compromised Gujarat Police to reopen 1,958 riotcases, arrests were made only in 117 cases. Investigations against Muslim rioters have moved much faster than those against Hindu rioters.

- The impact of identity politics: While not all Hindus in India subscribe to Hindutva, understanding that the idea of a Hindu nation state violates the pluralistic character of the Constitution of India, it is undeniable that the middle-class and a large section of the rich are quite taken by Moditva. He provides them with a heady cocktail of the fruits of globalisation, economic power and hard-core religious fundamentalism. Identity politics is an unfortunate political tool across the country, and its success in garnering votes has legitimized its use. Hate speeches keep political careers secure. It has meant the destruction of democratic principles and the values enshrined in the Indian Constitution.

This was a background on what the current government looks like, with its huge belief in politics of faith. It is vital to understand how this can be a “health hazard” and has affected the country during this current global pandemic. Some examples are as follows:

Let us take a look at the two infamous religious gatherings for instance. Nearly three million people had gathered by the banks of the Ganga in Haridwar for the Maha Kumbh Mela, one of the largest religious gatherings in the world, even though India is currently witnessing its most severe COVID-19 outbreak since the pandemic began. Photos and videos from the event showed that COVID-19 protocols like physical distancing and wearing masks were absolutely not being followed at the event.

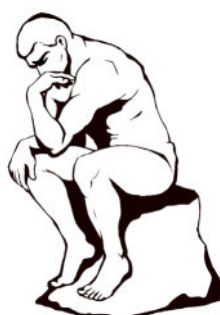
The hypersensitivity and lack of concern for public health in the face of the mahakumbh is in stark contrast to the Modi government’s handling of the outbreak of COVID-19 last year detected at the Nizamuddin Markaz of the Tablighi Jamaat in New Delhi.

Unlike the mahakumbh, that event was attended by about 3,500 people and was held before the government had imposed any sort of restrictions on public gatherings or travel from abroad. This was also when several Central leaders had scoffed at those saying the pandemic should be taken seriously. But overnight, the Tablighi Jamaat was painted as an irresponsible group and blamed for the entire spread of the epidemic in India by both a section of the Big Media and leaders of the Bharatiya Janata Party. This led to backlash of a communal nature against Muslims in various parts of the country; Muslim vegetable vendors were heckled and abused and TV channels came up with abusive and degrading headlines like “corona jihad”.

A year later, India’s COVID-19 situation is much worse than it was when the Tablighi Jamaat event was held. And

yet, a much, much larger religious event is being held with government backing – and neither the

**“The Kumbh Mela shouldn’t be compared to the Markaz,” Uttarakhand chief minister Rawat recently told Hindustan Times, “because now people know they should sanitise their hands and wear masks.”**



TV channels who painted all Muslims as “coronavirus spreaders” nor BJP leaders who saw an alleged evil design playing out in Nizamuddin have anything to say about it. “The Kumbh Mela shouldn’t be compared to the Markaz,” Uttarakhand chief minister Rawat recently told Hindustan Times, “...because now people know they should sanitise their hands and wear masks.”

Leaving aside the fact that masks are largely absent at the kumbh, the two events aren’t comparable, but for a different reason: the Markaz was about one-thousandth the event the Kumbh Mela is (in terms of attendance), and was held when the dangers of the novel coronavirus were barely known. The Kumbh Mela, on the other hand, is flouting the guidelines the government has put in place, as if they do not exist for the followers of Hinduism.

This is blatant communalism on the government’s part, and clearly shows how biased they are in their form of governance in supporting a Hindu event and completely degrading a muslim one. Several questions have been raised on why the authorities have done nothing to ensure that the Kumbh Mela – as well as political rallies in the states seeing assembly elections – have not been limited to ensure safety. All the big political parties have flouted COVID-19 rules during the campaign for the elections in Kerala, Puducherry, Tamil Nadu, Assam and West Bengal. The fact that the Bengal election has been spread out over eight phases means the risk of spread is even greater. Another big mishandling on the government’s part have been the extensive state elections held during a time of utter chaos.

**Biased Media:** The entire Tablighi Jamaat was so wrongfully portrayed by the media, causing a communal upheaval making the muslims look like criminals. They even called coronavirus the “tablighi virus”, an act of utter disgrace. These were mostly news houses that had some political influence on them, and there was no other body correcting these mistakes either. It is sad to see that the fourth estate of our democracy, a key to our freedom, has been compromised, at the cost of some votes for a ridiculously right-winged party.

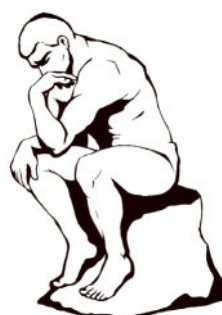
Even when it comes to imposition of laws, or protection of the people. Our government supports the big businesses to the best of its ability, but the smaller holdings? Where will they find the help and support? The most recent example would be of the migrant labourers

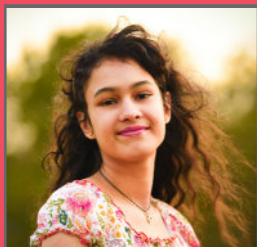
who suffered massively at the beginning of our nation-wide lockdown. The state did little to help them, and left them on their own, at God’s mercy.

Is this the kind of country that our ancestors who fought in the freedom movement had dreamt of? A country where acts like CAA is passed to not allow muslims to live peacefully, a country where kinds of meat that different communities consume are banned, a country where the basic freedom of press and expression is compromised, a state where justice is not guaranteed because no longer is the judiciary independent of state control? All to uphold this great saffron wave?

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# THE OXYGEN CRISIS IN INDIA

*[Anushka examines the oxygen crisis in India against the backdrop of a stressed health sector]*

In the second wave of Covid 19, no resource has emerged as precious as medical oxygen. Countries around the world are in dire need of Oxygen, but the country most adversely affected by its scarcity is India. This modern-day horror consumes the life of hundreds and thousands of Covid -19 positive patients every day.

The onset of the first lockdown caused policymakers to be concerned. P.E. shortages, lockdowns, the threat of economic collapse, remote schooling, therapeutics, and vaccines, oxygen supply never rose to the top of the list. In the last two months, the unmet global need for medical oxygen has more than tripled, from less than 9 million cubic meters a day to more than 28 million, according to a coalition of aid groups that are tracking the virus. About half of that unmet need is in India. Despite domestic inoculations, the second wave has left India with a massive number of cases. The government has been criticised for lack of preparedness when it came to election rallies and large-scale festivals. Only 30 million people have had the complete two doses of a Covid vaccine in India so far, government data shows. That is just over 2 per cent of India's total population of 1.3 billion people — although around a quarter of that total are under 15 years old and, as such, are not eligible for a vaccine yet.

Money and Time are needed to resolve this crisis. Public health advocates have proposed

that Hospitals must collaborate with PSA (Pressure Swing Adsorption) plants in a cost-effective manner, while the country seeks foreign aid to fulfil the money quota. India plans to install pieces of equipment in many hospitals, but this would take months to become effective. The rate of demand far outweighs the rate of supply. In desperation, India is using trains, as well as military cargo planes to obtain oxygen tanks on such short notice. To make up for the supply shortfall, the production of medical oxygen has surged, from 700-800 tons per day in February to over 9,000 tons per day on May 4. Several countries have also sent India much-needed relief materials, from ISO tanks to oxygen concentrators and cylinders. As aid has poured in, mostly in the form of oxygen making plants and concentrators, Mukesh Ambani's Reliance Industries pitched in, contributing over 1,000 metric tons of medical grade oxygen per day free of charge. The DRDO is working with several private and public sector agencies to produce over 700 Pressure Swing Adsorption (PSA) plants. The desperation that started with the Capital has contaminated the entire country now. The southern states are unwilling to share aid, holding on to whatever little they have left. The World Health Organization now says that a new variant of the virus detected in India, B.1.167, maybe especially transmissible, which is just adding to the sense of alarm. Looking at the Capital trembling due to the oxygen crisis, the chances of rural areas to survive this calamity look bleak. At one hospital in Andhra Pradesh, a rural state in





**Image Source:** <https://www.ft.com/content/d377c611-d79d-4dd6-b740-d1c418b4b23c>

south-eastern India, furious relatives went on a rampage in the intensive care unit after lifesaving oxygen suddenly ran out. The same tragedies have occurred repeatedly all over the country, with patients dying while gasping for air.

An oxygen crisis is not the only threat India faces at the moment, along with that there is a lack of vaccines and a lack of hospital beds. It was understandable that India, being such a populous country would take a hit when Covid 19 cases are detected in India, but the following events that have taken place over the two waves have just proven how inefficient the healthcare system in India is. India needs to pull up its socks. Unfortunately, till today, social distancing is being considered a farce with unnecessary crowd markets, melas, festivals and election campaigns being held.

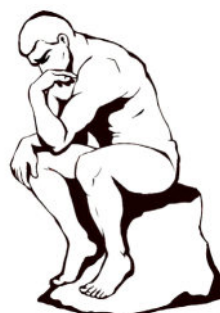
The rural areas lack resources to prove sufficient for the surging rise in positive cases there. This is further fuelled by the fact that the figures of covid positive patients are not accurate and as the public health safety officers deduce, are far more

than the numbers on the reports. India's crematorium workers bear this burden of COVID crisis, who risk testing positive themselves while tending to mass cremation. The crematorium workers start preparing the pyre for the body daily, which arrives 30 minutes later in an ambulance. There is a clear breach of COVID protocol, with at least 30 people assembling for the funeral in most cases. This is truly saddening to see. Yet again, the number of bodies recorded our far away from reality.

The following measures must be taken into account to counter the third wave. The oxygen crisis will further entangle the other struggles India faces and must be considered a priority to resolve:

### **Procuring oxygen storage capacities for hospitals:**

Firstly, the oxygen required is only captured by a handful of companies that purify it in bulk which is mostly sold off to industries. Most underdeveloped nations lack the infrastructure required to supply medical oxygen to hospitals. Convenient machines which purify oxygen at a smaller scale are short supplied, leading heavily impacted countries to consider the expensive alternative of Oxygen tanks. ISO tanks contain liquid oxygen which is far denser than oxygen in ordinary air. A system of pipes is required to reduce the oxygen density and deliver it to the hospital rooms. Each ISO tank is refillable and can store over 21,000 litres of liquid medical oxygen, the equivalent of two tanker loads. They are also stackable to save



space. But the primary issue here is that most hospitals lack the pipes essential to deliver the oxygen and thus the method of pressure swing adsorption cannot be used by them. The need is so dire that existing nitrogen and argon tanks will be required to be utilised for storing medical oxygen. There are small devices called oxygen concentrators as well, which can serve about a patient or two, but cost about a hundred dollars. The oxygen demand is at an all-time high and has immensely outstripped the rate of supply. Companies are overwhelmed with the demand and are unable to meet the required numbers to subside the crisis. The fact that medical oxygen is so sought after right now has increased its rates, making it unbelievably difficult for even a middle-class family to obtain.

**Capital hiccups:** The oxygen crisis was introduced to India with multiple casualties in New Delhi due to the unavailability of medical oxygen. It was one of the worst affected cities due to its oxygen shortage. The government has been desperate enough to negotiate with local vendors for what little oxygen cylinders they have. On April 24, when the oxygen shortage was at its peak with hospitals like Maharaja Agrasen Hospital approaching the Delhi Government saying it was falling short of oxygen for its patients, the bench of Justices Vipin Sanghi and Rekha Palli asked the Centre and Delhi government to coordinate efforts to provide more oxygen to Delhi. The Delhi government says it continues to face an oxygen shortage because of inadequate allocation and supply by the central government, but the crisis also seems to have been caused by its failings, such as the inability to manage logistics or the absence of an allocation plan to hospitals. The Supreme Court stepped in on May 7 to compel the Centre to issue Delhi its assigned quota of 700 tons per day. Prime Minister Narendra Modi has been asked to devise a proper national oxygen distribution plan to set records straight. Currently, the demand for Oxygen in Delhi has eased up slightly, but with the expectation of the third wave in India, the same mistakes cannot be made twice.

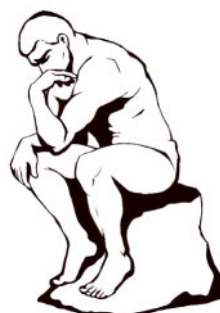
**Establishment of PSA plants:** PSA plants draw oxygen directly from the atmosphere and can directly pipe the harvested gas into hospitals. The technology to set these up already exists in India, but these plants need between 4-6 weeks to be commissioned. A standard sized PSA plant can produce 360 litres of oxygen per minute, supplying 60-70 oxygen beds. (One patient generally requires

5 litres of oxygen per hour, which goes up to 20 litres per hour for critically ill patients). PSA plants are long-term investments but are cost-effective and ensure that hospitals always have a backup supply of oxygen.

Oxygen is not only used to treat COVID-19. It is an essential medicine for pneumonia, sepsis, in anaesthesia as well as childbirth, and treats trauma/accident victims. About 2.5 million people – including 670,000 children under five, die of pneumonia every year when experts say that better sanitation, access to vaccines, oxygen and antibiotics can save their lives. The pandemic has highlighted the need for medical oxygen, which was already existent, this ‘blind spot’ in the medical industry will hopefully be stressed upon manufacturing now with governments across the world initiating plans to set up their PSA plants. The third wave of Corona is likely to begin after 6 months. If by then medical oxygen deficiency and an inefficient vaccination system are not tackled, India will delve into the dark days deeper than it has ever before.

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**OLGA TELLIS**

Image Source: <https://www.rediff.com/news/column/olga-tellis-a-true-legend-of-our-times/20150813.htm>

# THE OLGA TELLIS CASE

## Contents-

1. Article 21 of the Indian Constitution
2. Olga Tellis vs Bombay Municipal Corporation
3. Background of the case
4. Issues involved
5. Arguments
6. Judgement
7. Enforcement of the Judgement
8. Significance of the Case
9. Bibliography

## Article 21 of the Constitution of India – Right to Life and Personal Liberty:

Article 21 of the Constitution is one of the main articles included in Part III of the Constitution of India that deals with fundamental rights. Article 21 is protection of life and personal liberty. No person shall be deprived of his life or personal liberty except according to procedure established by law. The article prohibits the deprivation of rights according to procedures established by law. Article 21 is the heart of the Indian Constitution. It is the most organic and progressive provision in our Indian Constitution. Fundamental rights are protected under the charter of rights in the Constitution of India. Article 21 talks about equality before the law, freedom of

speech and expression, religious and cultural freedom, etc. Article 21 is valid for every citizen of India.

Article 21 secures two rights:

- 1) Right to life, and
- 2) Right to personal liberty.

The Article prohibits the deprivation of the above rights except according to a procedure established by law. Article 21 corresponds to the Magna Carta of 1215, the Fifth Amendment to the American Constitution, Article 40(4) of the Constitution of Eire 1937, and Article XXXI of the Constitution of Japan, 1946.

## MEANING AND CONCEPT OF ‘RIGHT TO LIFE’

Article 21 of the Constitution of India, 1950 provides that, “No person shall be deprived of his life or personal liberty except according to procedure established by law.” ‘Life’ in Article 21 of the Constitution is not merely the physical act of breathing. It does not connote mere animal existence or continued drudgery through life. It has a much wider meaning which includes right to live with human dignity, right to livelihood, right to health, right to pollution free air, etc.

Right to life is fundamental



to our very existence without which we cannot live as a human being and includes all those aspects of life, which go to make a man's life meaningful, complete, and worth living. It is the only article in the Constitution that has received the widest possible interpretation. Under the canopy of Article 21, so many rights have found shelter, growth, and nourishment. Thus, the bare necessities, minimum and basic requirements that are essential and unavoidable for a person is the core concept of the right to life.

### MEANING AND CONCEPT OF "RIGHT TO PERSONAL LIBERTY"

**"No person shall be deprived of personal liberty according to the procedure established by law".**

The protection of our liberty is the mere responsibility of our law as our Constitution of India quoted. As we see the Supreme Court is the guardian of the Constitution of India. So according to this Supreme Court has the mere responsibility to protect and guarantee fundamental rights. As a citizen of India, we have all the fundamental rights which are established by law. So we can enforce it through the Supreme Court whenever our fundamental rights get violated.

Right to constitutional remedy is the part of fundamental rights so it is the responsibility of the Supreme Court to exercise the Judicial Review through writs or orders for the enforcement of fundamental rights. The Supreme court has made the judicial process as a bulwark of personal liberties.

### THE OLGA TELLIS CASE (Olga Tellis v. Bombay Municipal Corporation) :

This case is a writ petition filed by a lady journalist Olga Tellis along with PUCL and other organizations under Article 32 of the Constitution of India. This petition challenged the eviction of pavement dwellers. The petitioners contended that

the order of the police under section 314 of the Bombay Municipal Corporation Act 1888 is violative of Article 14, 19 and 21 of the Constitution Of India.

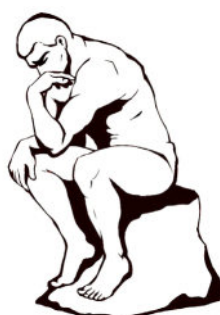
### BACKGROUND :

In 1981, the State of Maharashtra and the Bombay Municipal Council decided to evict all pavement and slum dwellers from the city of Bombay. The residents claimed such action would violate the right to life, since a home in the city allowed them to attain a livelihood and demanded that adequate resettlement be provided if the evictions proceeded. The Court declined to provide the remedies requested by the applicants but found that the right to a hearing had been violated at the time of the planned eviction.

The Court held that the right to life, in Article 21 of the Constitution, encompassed means of livelihood since, if there is an obligation upon the State to secure to citizens an adequate means of livelihood and the right to work, it would be sheer pedantry to exclude the right to livelihood from the content of the right to life. However, the right to a livelihood was not absolute and deprivation of the right to livelihood could occur if there was a just and fair procedure undertaken according to law. The government's action must be reasonable and any person affected must be afforded an opportunity of being heard as to why that action should not be taken.

In the present case, the Court found that the residents had been rendered the opportunity of being heard by virtue of the Supreme Court proceedings. While the residents

.....  
**“No person shall be deprived of his life or personal liberty except according to procedure established by law.” ‘Life’ in Article 21 of the Constitution is not merely the physical act of breathing. It does not connote mere animal existence or continued drudgery through life. It has a much wider meaning which includes right to live with human dignity, right to livelihood, right to health, right to pollution free air, etc.”**





were clearly not intending to trespass, they found it was reasonable for the government to evict those living on public pavements, footpaths and public roads. The evictions were to be delayed until one month after the monsoon season (31 October 1985).

The Court declined to hold that evicted dwellers had a right to an alternative site but instead made orders that:

- (i) sites should be provided to residents presented with census cards in 1976;
- (ii) slums in existence for 20 years or more were not to be removed unless land was required for public purposes and, in that case, alternative sites must be provided;
- (iii) high priority should be given to resettlement.

The issues involved :

- 1.Scope of Right to life and livelihood under Article 21 of the constitution.
- 2.Constitutionality of Section 312, 313 and 314 of the Bombay Municipal Corporation Act.
- 3.Question of Estoppels against fundamental rights or Waiver of Fundamental Rights.
- 4.Whether pavement dwellers are ‘trespassers’ under IPC.

### **Groups involved in the case:**

The case was brought by 11 residents, the Peoples Union for Civil Liberties, Committee for the Protection of Democratic Rights, and two journalists, one of whom was Olga Tellis.

Arguments:

### **Arguments of Petitioners:**

• The counsel on the applicant’s behalf argued that the “right to life” guaranteed by Article 21 included the right to a means of subsistence and that he would be deprived of his livelihood if he were expelled from his slums and its sidewalks, which would amount to a deprivation of his right to life and is, therefore, unconstitutional.

• The petitioner argued that the procedure prescribed by Section 314 of the 1888 Act to eliminate intrusion on the sidewalk is arbitrary and unreasonable since it not only does not provide notification before the removal of the intrusion but also provides that the Municipal commissioner can make sure that the intrusion is eliminated “without notice.”

The Supreme Court while justifying with the Arguments of the petitioners stated that –

1.The right to life has a much wider scope, it doesn’t only mean that life cannot be threatened except a procedure established by law but, as this definition restricts its ambit. The court recognized that livelihood forms a basis of Right to life as no person can sustain life without livelihood. Not including livelihood in Fundamental Rights is the easiest way to harm the spirit of Article 21. The Supreme Court added that deprivation of persons from this right should only be in accordance with law as depriving from this right can lead to deprivation of right to life of a person and not including it in Right to life is also in contradiction of Articles 39(a) and 41 of the constitution.

2.The Supreme Court, while establishing more stress on the inclusion of livelihood in Article 21, also made it clearly visible that such laws can definitely be deprived by a procedure established according to law. Thus, sections 312(1) 313(1)(a) and 314 which empowers commissioner to remove encroachments from footpaths and public places cannot be regarded as unjust and unreasonable as these sections are not against the principle of natural justice but these are acting as exception rule(as the procedure established by law in certain circumstances). Hence, not arbitrary.

Arguments of Respondents:

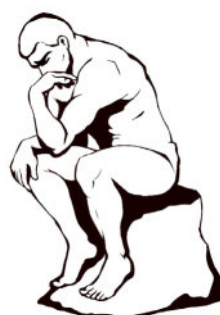
• The defense counsel stated that the pavement residents had admitted to the High Court that they did not claim any basic right to install cabins on sidewalks or public roads and they would not prevent their demolition after the scheduled date.

• On the issue of natural justice, it was argued that this possibility of hearing should be given to whom? The intruder who has invaded public property? Or to people who commit a crime?

In justifying with the arguments of respondents court stated that:

1.There can never be an estoppel and waiver against the Constitution and Fundamental Rights respectively. Individuals cannot barter away the rights granted to them by the Constitution. Any such concession made in any hearing whether under a mistake of law or otherwise, cannot lead to an estoppel for him in any further proceedings. As such a concession harms and defeats the basic purpose of the provisions of the Constitution.

2.The court on the issue of petitioners being called criminals hence do not deserve the right to be heard, stated that before calling them trespassers under Section 441 of the IPC, there is a need to understand the essential



elements of trespassing. The elements are to “commit an offence or intimidate, insult or annoy any person”. But in this situation none of these elements are met. These encroachments are just an involuntary act which these people are compelled to do because of their grim life situations. Though trespassing is tort, even in the law of torts the force used against the trespasser to expel him should be reasonable enough and a proper time and opportunity to leave should be given to him in such conditions.

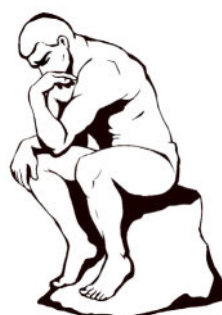
### **Obiter Dicta:**

While summarizing the case of the petitioners, the main argument of their argument is that the right to life guaranteed by Article 21 includes the right to a means of subsistence and that they will be deprived of their livelihood if they are expelled from their slums and their sidewalks. their expulsion would amount to a deprivation of life and is therefore unconstitutional. For the purpose of discussion, we will assume the factual accuracy of the premise that if the petitioners are expelled from their homes, they will be deprived of their means of subsistence. In this case, the question we must consider is whether the right to life includes the right to a means of subsistence. We see only one answer to this question, namely that this is the case. The right to life conferred by article 21 is vast and far-reaching.

This does not simply mean that life cannot be extinguished or removed, for example by imposing and executing the death penalty, except in accordance with the procedure established by law. This is just one aspect of the right to life. The right to livelihood is an equally important aspect of this right because no one can live without the means to live, that is to say, the means of subsistence.

If the right to livelihood is not treated as a part of the constitutional right to life, the easiest way of depriving a person his right to life would be to deprive him of his means of livelihood to the point of abrogation. Such deprivation would not only denude the life of its effective content and meaningfulness but it would make life impossible to live.

And yet, such deprivation would not have to be in accordance with the procedure established by law, if the right to livelihood is not regarded as a part of the right to life. That, which alone makes it possible to live, leaving aside what makes life liveable, must be deemed to be an integral component of the right to life.



Depriving a person of his right to livelihood and you shall have deprived him of his life. Indeed, that explains the massive migration of the rural population to big cities. They migrate because they have no means of livelihood in the villages. The motive force which made the people retire from their homes in the villages that struggle for survival, that is the struggle for life.

So unimpeachable is the evidence of the nexus between life and the means of livelihood. They have to eat to live: Only a handful can afford the luxury of living to eat. That they can do, namely, eat, only if they have the means of livelihood. That is the context in which it was said by Douglas J. in Baksey that the right to work is the most precious liberty because it sustains and enables a man to live and the right to life is a precious freedom.

“Life”, as observed by Field, J. in *Munn v. Illinois* (1877) 94 U.S. 113, means something more than mere animal existence and the inhibition against the deprivation of life extends to all those limits and faculties by which life is enjoyed.

### **Judgement**

The court finally by considering all the sides in its judgement in the present case held that evicted dwellers do not have a right to alternative site and simultaneously it also held that :

1. People do not have the right to encroach on footpaths, pavements or any other place reserved or declared for public purpose.
2. In the current circumstances, section 314 of the Bombay Municipal Corporation is not unreasonable.
3. Residents censored in 1976 should be provided with sites.
4. Those slums which had existed for 20 years or more could not be removed unless land was required for certain public purposes, and in such cases alternative sites to be provided.
5. High priority should be given to resettlement.

### **Enforcement of the Judgement and Outcomes:**

The pavement dwellers were evicted without resettlement. Since 1985, the principles in this case have been affirmed in many subsequent

decisions, frequently leading to large-scale evictions without resettlement. For example, in the Narmada dam cases, adequate resettlement was ordered but most affected evictees have not been properly resettled and the majority of the Court declined to examine the extent to which their judgment was enforced: see *Narmada Bachao Andolan v. Union of India* (2000) 10 SCC 664.

### **Significance of the Case:**

Olga Tellis has stated: Ironically,[the case] helped the propertied classes; lawyers often cite the case to justify eviction of tenants and slum dwellers. But it also helps the slum dwellers; the Government can't evict them summarily. The case also spawned a lot of interest in fighting for housing as a fundamental right but if you were a pavement dweller, it is just not enough. This case is widely quoted as exemplifying the use of civil and political rights to advance social rights but it is also viewed as problematic due to its failure to provide for the right to resettlement. It is also inconsistent with developments in other jurisdictions, where courts have found stronger rights to resettlement.

### **CONCLUSION:**

The decision of the Supreme Court, in this case, was based on the humanistic approach of the judges and the Apex Court stepped into the activist role. The Hon'ble Supreme Court held that the slum dwellers must get the alternative shelter if they are evicted from the pavements. Although, the eviction orders were held to be valid under Article 14 and 19 of the Constitution. The right to life was once again enlarged to engulf the right to livelihood as being a part of the liberty of an individual. The decision of the Court also focused on the concept of the welfare state and reliance though not expressly but impliedly was placed on the Directive Principles of the State Policies under the Constitution.

The judgment reflects very much the 'Principle of Utility' propounded by Jeremy Bentham. According to Bentham happiness can be maximized only if instances of pain are lighter and fewer. The judgment delivered by the Hon'ble Court can be said to be the replica of the idea embodied in the 'Principle of Utility'. Slum and pavement dwellers constitute almost half of the total population of Bombay. The participation of the interests of such a large number of people forced the Court to lean in their favor despite the existence of the specific law for the eviction of the inhabitants of the pavement. According to the chief justice of the court, Y.V. Chandrachud, although the

petitioners are using unauthorized pavements and public property, are not in any way "criminal intruders" under section 441 of the Criminal Code of India, since their objective or reason for doing so is not to commit a crime or intimidates, insults or annoys any person, rather they are forced by unavoidable circumstances and are not guided by choice. They only manage to find a habitat in dirty or swampy places. This decision, where the scope of the term "life" was extended, has also paved the way for the reform of substantive law.

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