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A STUDY ON INTER-STATE TRADE BARRIERS AND THE CONSTITUTIONAL REMEDIES.

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Abstract:

Inter-State trade and commerce constitute the lifeline of a unified economic market in India. Despite constitutional safeguards, multiple barriers—statutory, administrative, and infrastructural—impede the free flow of goods, services, and capital across states. This article examines the constitutional framework governing inter-state trade, identifies barriers, judicial interpretations, and constitutional remedies, particularly under Articles 301–304 of the Indian Constitution. Through key case laws and statutory mechanisms such as the Goods and Services Tax (GST) regime, it explains how constitutional jurisprudence and institutional remedies have shaped the freedom of trade in India

Keywords:

Inter-State Trade, Freedom of Trade and Commerce, Article 301, Article 302, Article 303, Article 304, Constitutional Remedies, Trade Barriers, Judicial Review, Goods and Services Tax (GST), Economic Unity, Federalism, Regulatory Restrictions, Indian Constitution.

1) Introduction:

India adopted a quasi-federal constitutional structure with a strong commitment to economic unity. Unlike classical federations where trade barriers historically existed between States, the framers of the Constitution consciously incorporated provisions to prevent economic fragmentation. Part XIII of the Constitution ensures free trade and economic integration while accommodating regulatory exceptions. The jurisprudence developed by the Supreme Court of

India has shaped the contours of inter-State trade freedom, particularly through landmark cases such as *Atiabari Tea Co. Ltd. v. State of Assam*¹ and *Automobile Transport (Rajasthan) Ltd. v. State of Rajasthan*.² This article critically analyses the constitutional architecture, judicial doctrines, fiscal federalism implications, and post-GST developments.

2) Statement of the problem:

The Constitution of India, under Part XIII (Articles 301–307), guarantees the freedom of trade, commerce, and intercourse throughout the territory of India with the objective of ensuring economic unity and a seamless national market. However, despite this constitutional mandate, inter-State trade in India continues to face various barriers arising from fiscal measures, regulatory controls, and administrative practices adopted by States. These barriers—such as discriminatory taxation, procedural restrictions, and compliance burdens—often impede the free flow of goods and services, leading to market fragmentation and inefficiencies. The tension between the constitutional goal of economic integration and the principles of fiscal federalism further complicates the issue. While States possess the authority to impose taxes and regulations in the public interest under Articles 302–304, the misuse or overextension of such powers can result in protectionist policies that undermine the spirit of Article 301. Moreover, although the introduction of the Goods and Services Tax (GST) regime has significantly reduced traditional trade barriers, challenges relating to compliance, rate differentiation, and Centre-State fiscal dynamics continue to affect the realization of a truly unified market. In this context, the core problem lies in assessing whether the existing constitutional framework and judicial remedies are adequate to address and prevent inter-State trade barriers, while maintaining a balance between economic unity and State autonomy. The study seeks to critically examine these issues and evaluate the effectiveness of constitutional safeguards in ensuring free and fair inter-State trade in India.

3) Review of Literature:

The issue of inter-State trade barriers and constitutional remedies under Part XIII of the Indian Constitution has attracted attention from legal scholars, economists, and policy analysts. The literature reflects an interdisciplinary engagement, combining constitutional law, economic theory, and fiscal federalism.

¹ *Atiabari Tea Co. Ltd. v. State of Assam*, AIR 1961 SC 232.

² *Automobile Transport (Rajasthan) Ltd. v. State of Rajasthan*, AIR 1962 SC 1406.

Arvind P. Datar in his contribution to *the Oxford Handbook of the Indian Constitution* provides a comprehensive doctrinal analysis of Part XIII. He explains that Articles 301–305 were designed to ensure the free flow of trade across States while allowing limited regulatory intervention. Datar emphasizes that the constitutional scheme seeks to prevent “economic Balkanization” and maintain a unified national market.³

Similarly, **Raj Krishna and Sagarika Swapnil (2022)** examine inter-State trade within the constitutional framework and highlight the tension between State taxing powers and the freedom of trade. Their study observes that Indian constitutional courts have consistently attempted to strike a balance between fiscal autonomy and economic integration.⁴

From an economic perspective, **Eva Van Leemput (2021)** provides an empirical analysis of internal trade barriers in India. Her study demonstrates that internal trade barriers constitute a significant portion—approximately 40%—of total trade costs within the country.⁵

The study further finds that reducing inter-State trade barriers can substantially improve welfare, even more than eliminating international trade barriers. This reinforces the importance of domestic economic integration in a federal structure like India.

Economic literature thus complements constitutional analysis by quantifying the real-world impact of trade restrictions, including price dispersion, logistical inefficiencies, and reduced market efficiency.

Recent scholarship has expanded the concept of trade barriers beyond taxation to include **non-tariff measures (NTMs)** such as regulatory standards, licensing requirements, and compliance mechanisms.

Prajakta Arote, Hastimal Sagara, and Pravin Jadhav (2025) examine non-tariff barriers in the context of India-ASEAN trade and conclude that such measures significantly reduce trade

³ Arvind P. Datar, *Inter-State Trade, Commerce, and Intercourse*, in *Oxford Handbook of the Indian Constitution* (2017).

⁴ Raj Krishna & Sagarika Swapnil, *A Case Study of Interstate Trade, Commerce in India*, (2022) 3 IJLR 88.

⁵ Eva Van Leemput, *A Passage to India: Quantifying Internal and External Barriers to Trade*, (2021) *Journal of International Economics*.

flows by increasing compliance costs and uncertainty.⁶

Although their study focuses on international trade, its findings are equally relevant to inter-State trade within India, where regulatory heterogeneity among States can function as de facto barriers.

4) Research gap of the study:

Despite extensive judicial interpretation of Part XIII (Articles 301–307) of the Constitution of India, existing literature largely focuses on doctrinal analysis of landmark cases such as *Atiabari Tea Co. Ltd. v. State of Assam* and *Automobile Transport (Rajasthan) Ltd. v. State of Rajasthan*, with limited attention to their practical implications in the contemporary economic framework. There is a noticeable lack of integrated analysis examining how inter-State trade barriers persist in subtle regulatory and fiscal forms even after the implementation of GST. Further, insufficient scholarly work addresses the effectiveness of constitutional remedies—particularly judicial review under Articles 32 and 226—in resolving modern trade disputes involving complex fiscal mechanisms and cooperative federal institutions like the GST Council. The evolving nature of fiscal federalism, especially post-GST, has created new tensions between State autonomy and economic unity that remain underexplored. Thus, there exists a research gap in critically evaluating inter-State trade barriers through a contemporary lens that combines constitutional doctrine, economic policy, and institutional practice, while assessing whether existing constitutional remedies are adequate to address emerging challenges in India’s integrated market system.

5) Objective of the study:

1. To examine the nature and types of inter-State trade barriers in India.
2. To analyse the constitutional framework governing trade and commerce under Part XIII (Articles 301–307).
3. To evaluate judicial interpretations relating to inter-State trade restrictions.
4. To assess the role of constitutional remedies in addressing unlawful trade barriers.
5. To study the impact of the GST regime on reducing inter-State trade barriers and promoting economic unity.

⁶ Prajakta Arote et al., *Examining the Role of Non-Tariff Barriers in Trade Regulation and Trade Flows*, GNLU Journal of Law & Economics (2025).

6) Research Methodology:

This study adopts a **doctrinal research methodology** by analyzing constitutional provisions under Part XIII (Articles 301–307), relevant statutes, and landmark judicial decisions such as *Atiabari Tea Co. Ltd. v. State of Assam* and *Automobile Transport (Rajasthan) Ltd. v. State of Rajasthan*. It involves critical examination of legal principles, case laws, and scholarly commentaries to understand the scope of inter-State trade freedom and constitutional remedies. Additionally, a **non-doctrinal (empirical) approach** is incorporated by referring to reports, policy documents, and secondary data on trade barriers and GST implementation. The study evaluates practical challenges faced by stakeholders in inter-State trade through existing literature and governmental data. Thus, it combines theoretical legal analysis with empirical insights to provide a comprehensive understanding of inter-State trade barriers in India.

7) Significance of the Study:

1. This study is significant as it examines the crucial relationship between **economic unity and federal governance** in India through the lens of inter-State trade barriers. By analysing the constitutional framework under Part XIII, it highlights how restrictions on trade can affect the seamless functioning of a unified national market.
2. The research is important for understanding the **balance between State autonomy and national economic integration**, particularly in a federal structure where States possess independent taxing powers. It also contributes to legal scholarship by evaluating key judicial interpretations, including *Atiabari Tea Co. Ltd. v. State of Assam* and *Automobile Transport (Rajasthan) Ltd. v. State of Rajasthan*, which have shaped the scope of trade freedom under Article 301.
3. Further, the study gains contemporary relevance in the post-GST era, where the removal of traditional barriers has redefined fiscal federalism while raising new constitutional questions. By assessing constitutional remedies such as judicial review under Articles 32 and 226, the study underscores the role of the judiciary in safeguarding economic freedom.
4. Overall, this research provides valuable insights for policymakers, legal scholars, and researchers by addressing how constitutional mechanisms can ensure **free trade, prevent protectionism, and promote cooperative federalism in India**.

8) Hypothesis of the study:

This research is based on following Hypothesis:

1. Inter-State trade barriers in India, though often justified on grounds of fiscal autonomy and public interest, tend to undermine the constitutional mandate of economic unity envisaged under Part XIII of the Constitution.
2. Constitutional remedies, particularly judicial review and the principles of non-discrimination and proportionality, play a crucial role in ensuring that such barriers remain within permissible limits and do not impede the free flow of trade, commerce, and intercourse.

9) Limitation of the study:

This study is subject to certain limitations that must be acknowledged. Firstly, it is primarily **doctrinal in nature**, relying on constitutional provisions, judicial decisions, and secondary sources; it does not incorporate empirical data or field-based analysis of inter-State trade practices. Secondly, the scope is largely confined to **Part XIII of the Constitution (Articles 301–307)**, and therefore does not extensively examine allied areas such as competition law, international trade, or sector-specific regulatory regimes.

Thirdly, while the study considers the impact of the **GST regime**, the analysis is limited by the **evolving nature of GST jurisprudence** and ongoing fiscal developments, which may lead to future reinterpretations. Additionally, the study focuses mainly on **Supreme Court judgments**, with limited engagement with High Court decisions and administrative practices at the State level.

Finally, given the dynamic nature of **fiscal federalism and economic policy in India**, the conclusions drawn may be subject to change with future constitutional amendments, legislative developments, and judicial pronouncements.

10) Result and Discussion:

Part 1: Doctrinal Analysis:

The doctrinal analysis of inter-State trade barriers in India reveals that the constitutional framework under Part XIII (Articles 301–307) embodies a carefully structured balance between economic unity and federal autonomy. Article 301 guarantees the freedom of trade, commerce,

and intercourse throughout the territory of India; however, this freedom is not absolute and is subject to reasonable restrictions envisaged under Articles 302–304.⁷ Judicial interpretation by the Supreme Court of India has played a pivotal role in defining the contours of this freedom and the permissible limits of State intervention.

The landmark decision in *Atiabari Tea Co. Ltd. v. State of Assam*⁸ established that any law that directly and immediately restricts the movement of trade would fall within the prohibition of Article 301 unless it satisfies the requirements of Article 304(b). The Court adopted a “direct and immediate effect test”, thereby emphasizing that even fiscal measures could be unconstitutional if they impede the free flow of trade. This interpretation marked a strict approach, prioritizing economic integration over State regulatory powers. However, the subsequent ruling in *Automobile Transport (Rajasthan) Ltd. v. State of Rajasthan* introduced a degree of flexibility by recognizing the concept of “compensatory taxes”, holding that regulatory measures or taxes facilitating trade (such as road usage taxes) do not violate Article 301.⁹ This shift reflects a more pragmatic judicial approach, accommodating the functional needs of governance within a federal structure.

The doctrinal development indicates that the judiciary has consistently attempted to harmonize the tension between free trade and fiscal federalism. The principle of non-discrimination under Article 304(a) has emerged as a key safeguard against protectionist State policies. States are prohibited from imposing taxes that discriminate between imported goods and locally produced goods, thereby ensuring competitive neutrality.¹⁰ At the same time, Article 304(b) permits reasonable restrictions in the public interest, subject to the condition of prior Presidential sanction, which acts as a constitutional check against arbitrary State action. The jurisprudence thus reflects a dual approach—while protecting trade freedom, it does not entirely curtail the regulatory competence of States.¹¹

In the post-GST era, the findings suggest a significant transformation in the nature of inter-State trade barriers. The introduction of the Goods and Services Tax has subsumed multiple indirect taxes, thereby reducing fiscal fragmentation and promoting the idea of “One Nation, One Market.” However, the doctrinal analysis reveals that barriers have not been completely eliminated; rather, they have shifted from overt fiscal restrictions to subtle regulatory and compliance-based obstacles, such as complex filing procedures, rate differentiation, and

⁷ Constitution of India, Arts. 302–304.

⁸ *Atiabari Tea Co. Ltd. v. State of Assam*, AIR 1961 SC 232.

⁹ *Automobile Transport (Rajasthan) Ltd. v. State of Rajasthan*, AIR 1962 SC 1406.

¹⁰ Constitution of India, Art. 304(a).

¹¹ Constitution of India, Art. 304(b).

administrative bottlenecks. The role of the GST Council has become central in maintaining cooperative federalism, yet tensions between the Centre and States regarding revenue sharing and fiscal autonomy persist.

Further, the study highlights that constitutional remedies under Articles 32 and 226 remain crucial in addressing unlawful trade barriers. The power of judicial review enables courts to strike down discriminatory or excessive restrictions imposed by States.¹² However, the effectiveness of these remedies in the contemporary context is somewhat constrained by the technical complexity of GST laws and the increasing reliance on institutional mechanisms rather than direct constitutional litigation. This indicates a gradual shift from purely judicial enforcement to institutional and cooperative models of dispute resolution.¹³

The doctrinal results also demonstrate that while the constitutional scheme successfully prevents explicit economic Balkanization, it does not fully address non-tariff and administrative barriers, which operate in more nuanced forms. Regulatory diversity among States, licensing requirements, and compliance burdens continue to affect the seamless movement of goods and services.¹⁴ This suggests that the existing constitutional provisions, though robust in principle, require dynamic interpretation and complementary policy measures to remain effective in a rapidly evolving economic environment.¹⁵

In conclusion, the discussion establishes that the Indian constitutional framework has been largely successful in promoting inter-State trade freedom through judicial innovation and institutional mechanisms. Nevertheless, the persistence of indirect and regulatory barriers highlights the need for continuous judicial vigilance, policy reforms, and cooperative federalism.¹⁶ The balance between economic unity and State autonomy remains a dynamic and evolving aspect of Indian constitutional law, particularly in the context of post-GST fiscal governance.

11) Relevant Case Laws:

1. *Atiabari Tea Co. Ltd. v. State of Assam*¹⁷

In this landmark case, the Supreme Court of India gave a strict and foundational interpretation to the freedom of trade and commerce under Article 301. The State of Assam had imposed a

¹² Constitution of India, Arts. 32 and 226.

¹³ Central Goods and Services Tax Act, 2017.

¹⁴ GST Council, Constitutional (101st Amendment) Act, 2016.

¹⁵ Arvind P. Datar, *The Oxford Handbook of the Indian Constitution*.

¹⁶ Eva Van Leemput, "Internal Trade Barriers in India" (2021).

¹⁷ *Atiabari Tea Co. Ltd. v. State of Assam*, AIR 1961 SC 232.

tax on the carriage of tea through its territory, which was challenged as a restriction on inter-State trade. The Court held that Article 301 guarantees not merely the freedom of trade in a formal sense but ensures that trade flows without “direct and immediate” restrictions. It ruled that any tax or measure that directly impedes the movement of goods would violate Article 301 unless it is justified under the exceptions provided in Article 302 to Article 304. The judgment emphasized that the Constitution aims to prevent economic fragmentation and maintain national unity through free trade. Importantly, the Court rejected the argument that taxation is always outside the scope of Article 301, thereby establishing that even fiscal measures can amount to trade barriers if they hinder the free flow of commerce. This case laid down the “direct and immediate effect” test, which became a crucial standard in determining the validity of laws affecting inter-State trade.

2. Automobile Transport (Rajasthan) Ltd. v. State of Rajasthan¹⁸

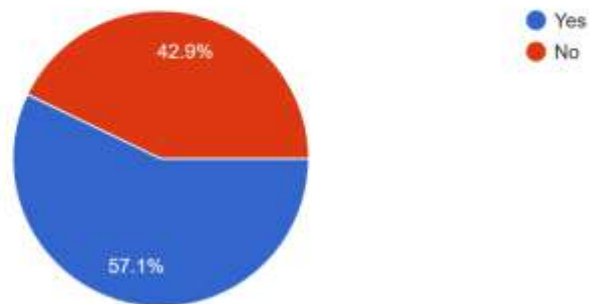
This case marked a significant evolution in the interpretation of Article 301 by adopting a more pragmatic and balanced approach. The validity of a motor vehicle tax imposed by the State of Rajasthan was challenged as being restrictive of trade and commerce. Unlike in *Atiabari*, the Supreme Court upheld the tax and introduced the important doctrine of “regulatory and compensatory taxes.” The Court reasoned that not all taxes affecting trade are unconstitutional; taxes that are imposed to facilitate trade—such as those used for the maintenance of roads and infrastructure—do not violate Article 301, as they actually support the movement of goods rather than hinder it. The judgment clarified that only those measures which are discriminatory or create actual barriers to trade would be unconstitutional. By doing so, the Court diluted the rigidity of the *Atiabari* principle and struck a balance between economic freedom and the legitimate needs of State governance. This decision is significant because it recognized the practical realities of governance in a federal system and ensured that States could levy reasonable charges without violating the constitutional mandate of free trade.

¹⁸ Automobile Transport (Rajasthan) Ltd. v. State of Rajasthan, AIR 1962 SC 1406.

Part 2: Non- Doctrinal Approach:

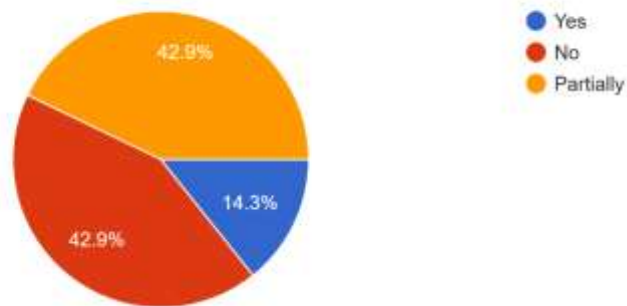
1) Are you aware of the concept of freedom of trade, commerce and intercourse under Article 301 of the constitution of india

14 responses



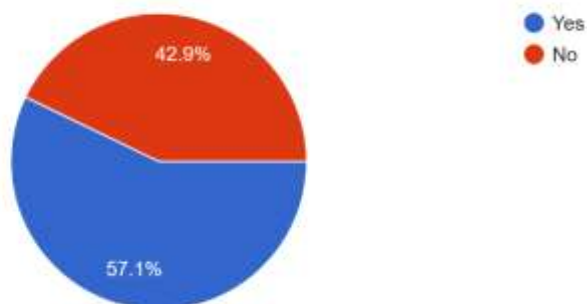
2) In your opinion, does India function as a single unified market?

14 responses



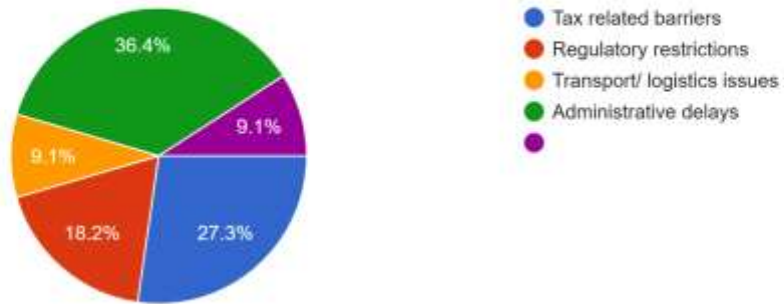
3) Have you experienced or observed barriers in inter state trade?

14 responses



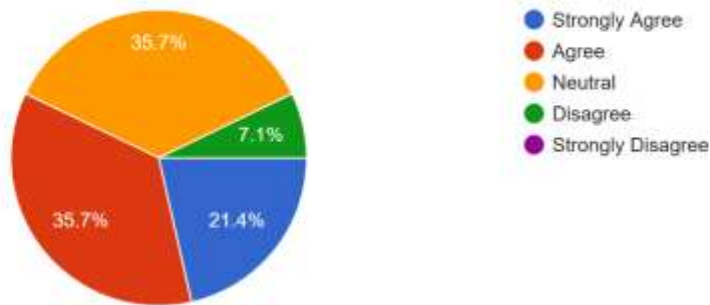
4) If yes, what type of barriers have you encountered?

11 responses



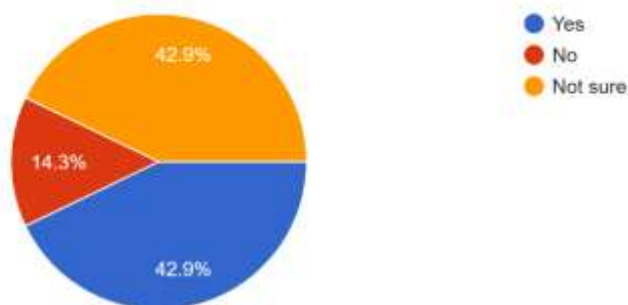
5) To what extent do you agree that state taxation policies create barriers to free trade?

14 responses



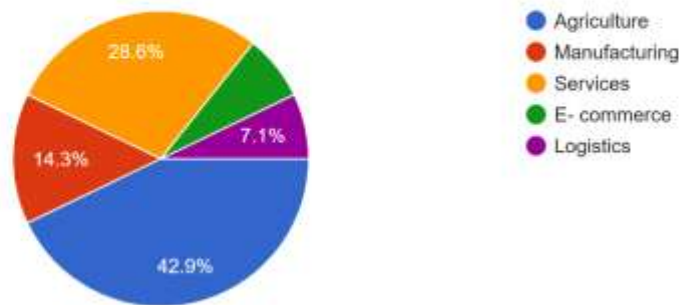
6) Do you think entry taxes and local levies (pre-gst) restricted inter state trade?

14 responses



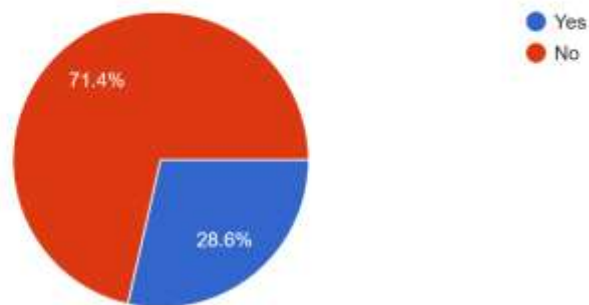
7) which sector do you believe is most affected by inter state trade barriers?

14 responses



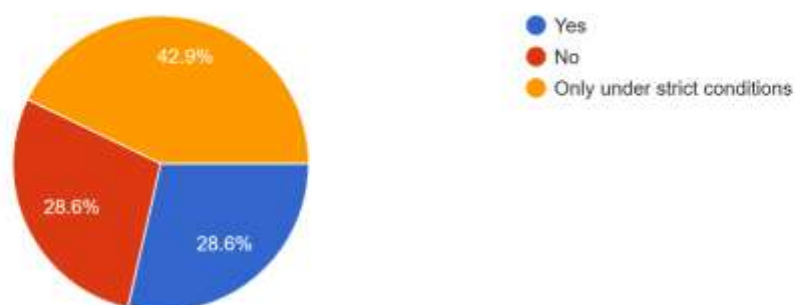
8) Are you aware that part XIII Article 301-307 governs inter-state trade?

14 responses



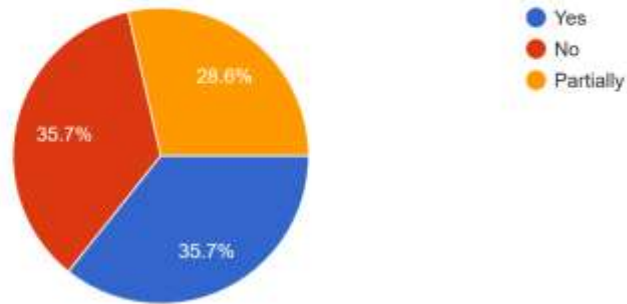
9) In your opinion, should states have the power to impose taxes on goods coming from other states?

14 responses



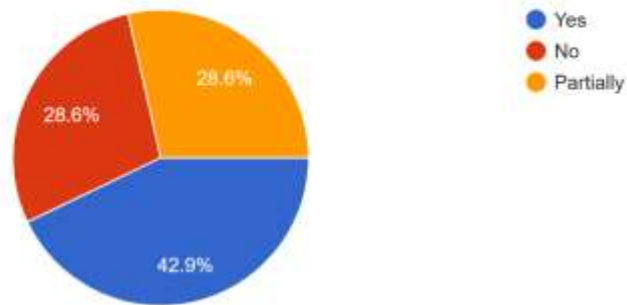
11) Has GST improved ease of doing business across states?

14 responses



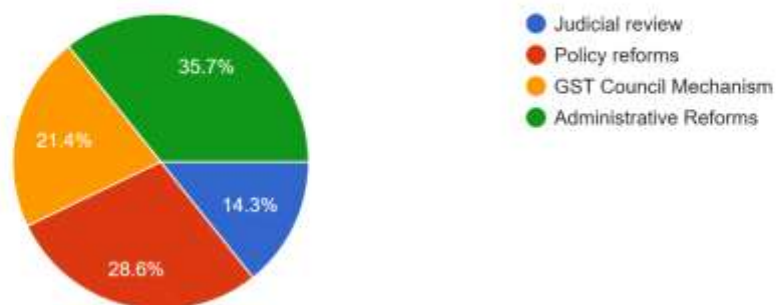
12) Do you think judicial intervention is effective in removing trad barriers?

14 responses



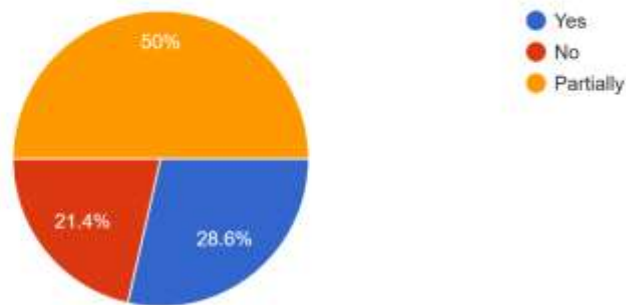
13) which remedy do you consider most effective?

14 responses



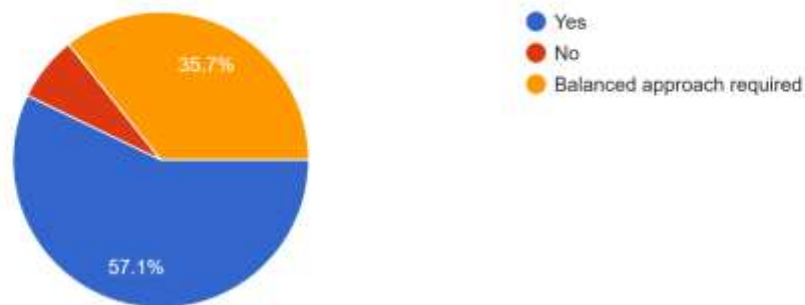
14) Do you think India has achieved true economic integration?

14 responses



15) should there be more centralized control over inter state trade?

14 responses



12) Testing of Hypothesis: Results and Discussion (Doctrinal + Non-Doctrinal Analysis)

The testing of the stated hypotheses is undertaken by integrating doctrinal insights derived from constitutional provisions and judicial precedents with non-doctrinal findings based on economic data, policy reports, and GST-era developments. This combined approach enables a comprehensive evaluation of the persistence of inter-State trade barriers and the effectiveness of constitutional remedies in addressing them. The combined doctrinal and non-doctrinal analysis demonstrates that the Indian constitutional framework under Part XIII has been largely successful in preventing explicit economic fragmentation and maintaining the idea of a unified national market. Judicial innovation has played a key role in interpreting and enforcing trade freedom, while the GST regime has significantly reduced traditional fiscal barriers.

However, the study also reveals that inter-State trade barriers have not been entirely eliminated; instead, they have transformed into more subtle forms, including regulatory inconsistencies, compliance burdens, and administrative inefficiencies. This shift highlights the limitations of

existing constitutional provisions in addressing modern economic challenges.

At the same time, constitutional remedies continue to function as an essential safeguard against misuse of State power, though their role is increasingly complemented by cooperative federal institutions and policy-based solutions. The balance between economic unity and State autonomy remains dynamic and requires continuous adaptation through judicial interpretation, legislative reform, and institutional coordination.

In conclusion, the testing of both hypotheses confirms that while the constitutional scheme provides a strong foundation for free inter-State trade, its effectiveness depends on evolving judicial doctrines, efficient institutional mechanisms, and sustained commitment to cooperative federalism in India. Hence, Alternative Hypothesis (H1) is accepted and Null Hypothesis (Ho) is rejected.

13) Suggestions:

The study suggests that a more coherent and harmonized approach is required to effectively address inter-State trade barriers in India. Firstly, there is a need for clearer legislative guidelines defining the scope of permissible restrictions under Articles 302–304 to prevent arbitrary or protectionist State actions. The ambiguity surrounding “reasonable restrictions” and “public interest” should be minimized through statutory clarification or judicial standardization. Secondly, the role of the judiciary must be strengthened by encouraging expedited adjudication of trade-related disputes under Articles 32 and 226, ensuring timely remedies against unconstitutional barriers.

Further, the functioning of the GST Council should be enhanced to act as a more effective platform for cooperative federalism by addressing rate disparities, compliance burdens, and procedural inconsistencies across States. Uniform compliance mechanisms and digital integration under GST should be simplified to reduce transaction costs for businesses. Additionally, there is a need to identify and regulate non-tariff barriers, such as licensing requirements and regulatory inconsistencies, which continue to operate as hidden restrictions on trade.

The study also recommends greater data-driven policy interventions, including periodic assessments of inter-State trade costs and barriers, to inform evidence-based decision-making.

Lastly, promoting awareness among stakeholders and ensuring transparency in State policies can foster a more business-friendly environment, thereby strengthening the constitutional vision of a unified national market.

14) Conclusion:

In conclusion, the constitutional framework governing inter-State trade in India reflects a delicate balance between economic unity and federal autonomy. Part XIII of the Constitution, particularly Article 301, embodies the vision of a seamless national market, free from unjustified barriers. However, as evidenced through judicial interpretations in landmark cases such as *Atiabari Tea Co. Ltd. v. State of Assam* and *Automobile Transport (Rajasthan) Ltd. v. State of Rajasthan*, the scope of trade freedom is not absolute and must accommodate reasonable regulatory measures.

Despite these constitutional safeguards, inter-State trade barriers continue to persist in various forms, particularly through fiscal measures, regulatory heterogeneity, and administrative practices. The introduction of GST has significantly transformed the indirect tax landscape by reducing traditional barriers and promoting economic integration; however, challenges relating to compliance complexity, rate differentiation, and Centre-State fiscal relations remain.

The study reaffirms that constitutional remedies, especially judicial review, play a crucial role in maintaining the balance between State powers and trade freedom. At the same time, evolving economic realities demand a more dynamic interpretation of constitutional provisions, supported by cooperative federal institutions and policy reforms. Ultimately, achieving a truly unified national market requires not only legal safeguards but also institutional coordination, policy clarity, and continuous reform, ensuring that the spirit of economic integration envisioned by the Constitution is fully realized.

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