Background Note on
Indian Constitution and challenges of Globalisation

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Globalization as a process is as old as the civilization itself but gained lot of prominence only during the last two decades. It has major impact on the administrative systems of all the countries in the world especially the developing nations. India also became a part of the process when we opened up our economy to the rest of the world in 1991.

2. Globalization in its basic economic sense refers to the adoption of open and unfettered trading markets (through lowering of trade barriers, removal of capital controls, and liberalization of foreign exchange restrictions). Large volumes of money movement, increased volumes of trade, changes in information technology and communication are all integral to a global world. There is also a significant movement of people from one country to another for trade and work. Such increases in the movement of goods, labor, and services have weakened national barriers and restrictions that are imposed by a nation state. In the past two decades, economic globalization has been the driving force behind the overall process of globalization.

3. Although globalisation is a much-contested concept, there is general agreement that, in the past two decades, there has been a substantial increase in the international flow of people, capital, goods and ideas. Often, it has been suggested that globalisation has resulted, on the one hand, in the decline of the sovereignty of the nation-state and on the other hand, a downward movement of political power, giving rise to the coupled forces of 'globalisation'.

4. There are differing impacts of globalisation on the Indian polity and there have been three different responses of Indian federalism to these challenges.

First, it is suggested that the deregulation of the economy has a skewed impact on the economic development of the country; while the developed regions would rapidly take off, the under developed and backward regions would lag behind. If the Indian state is to pursue its goals of equity and balanced development, it is imperative that the powers of the national government be increased.
Second, globalisation creates a legitimacy vacuum. While the nation-state presides over its own dismantling of economic sovereignty, it does not abandon its control or internal sovereignty. In order to enhance its domestic sovereignty, it is compelled to create local democratic structures, which result in furthering the legitimacy of the state.

With gradual deregulation of the Indian economy, there has quite naturally emerged competition between the Indian states to secure investment, especially from foreign sources.

5. Success of globalization depends on implementation of policies at the local level. So the focus has shifted from planning to execution. Since execution can only be done at the local level, centre has ceded the space to the states and local self governments.

6. Attracting foreign investment is key to success of globalization and it solely depends on the initiation and implementation of uniform policies by the centre and the states.

7. Economic development is heavily dependent on political stability and peace and harmony. As part of globalization, both the centre and states have become active partners in ensuring the above.

8. Our Constitution established a Welfare State and the Directive Principles of State Policy (DPSP) contained a detailed agenda for socio-economic transformation and reconstruction of our society. The Directive Principles were to be taken as fundamental and as providing guidance in the governance of the country. The Directive Principles emphasized that the goal of the Indian political system was not establishment of unbridled ‘laissez-faire’ economy under a ‘Police State’ but a Welfare State where the state was obliged to promote welfare of all the people by ensuring social, economic and political justice and equality to every citizen. In accordance with these visions of the founding fathers of our Constitution, the public sector came to occupy the ‘commanding heights of the economy’.

9. Institutions like planning commission and NITII Ayog played a key role during the pre-liberalization days and in some instances states ruled by opposition political parties have accused the central government of misusing planning commission to further its own ends. But the situation has changed with the advent of globalization with states as well as the center realizing the fact that both are equal and active partners in the developmental process.
10. Globalisation is not a homogeneous process. It has several trajectories. Although the state might abandon its sovereignty in the economic areas, it constantly strives to reinforce its domestic sovereignty.

11. Globalisation is associated with the free movement of capital, labour, goods and services across national borders. However, these parameters of economic globalisation cannot be viewed in isolation from other aspects such as the free exchange of ideas and practices. Especially from the viewpoint of developing nations, the benefits of increasing foreign investment in any particular sector should be assessed not only in terms of capital-flows and wealth creation but also in terms of technology-transfer and the infusion of know-how and best practices. From this perspective the legal systems in various countries have a lot to learn from each other – both in terms of institutional design and the evolution of substantive laws. There is linkages between increasing globalisation and the law. One approach for examining these linkages is to survey the legal challenges thrown up by the changing socio-economic conditions. With increasing trade and investment across borders, it is important for all nations to be sufficiently invested in the multilateral processes of rule-making and dispute-resolution while at the same time offering a balanced response to the resulting complexities through our domestic legal systems. In the age of the internet and frequent international travel – judges, lawyers, academics and even law students from different countries have a lot of opportunities to interact, collaborate and learn from each other’s experiences.

12. Thus, Globalization has pose challenges in every filed.