



# The Indian Journal for Research in Law and Management

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Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

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## GORKHALAND: DEBATE ON CONSTITUTIONAL ASPECTS AND ADMINISTRATIVE NEGOTIATIONS IN INDIA

~ *Ruhel Das*

### ABSTRACT:

This paper attempts to analyze the phenomenon of the Gorkhaland movement in the light of both constitutional provisions and the processes of administration in the context of Indian federalism. The paper highlights the fact that the call for Gorkhaland cannot be considered an ordinary regional political movement but rather a constitutionally significant process as well as an identity issue related to centuries of marginalization, language and representation. In its attempt to address these issues, the paper conducts a doctrinal analysis of the constitutional provisions governing the issue of reorganization of states, especially Article 3 of the Indian Constitution, alongside the limitations of other administrative means like autonomous council formation, tripartite agreement and the use of interlocutors. Based on a doctrinal research methodology, the paper aims at investigating the relationship between the constitutional opportunities to achieve statehood and the preference for negotiated administration as a conflict management strategy. By examining the question of Gorkhaland apart from protest movements, the essay seeks to contribute to wider discussions regarding federalism, constitutional recognition, and the Indian state's response to ethnic appeals for self-rule.

**Keywords:** *Gorkhaland Movement; Constitutional Federalism; Article 3 of the Constitution of India; Administrative Negotiation; Identity-Based Statehood Demands; Self-Governance.*

### INTRODUCTION :

It has been widely accepted that the term “Gorkha” has developed from linguistic change and originated from a Sanskrit word referring to the **Khas** people. Ancient Indian literature has often

referred to the Khas in traditional historical writings known as “**itihisas**”, which include works such as the **Mahabharata, Puranas, and Manusmriti**.<sup>1</sup> According to these writings, the Khas are said to be one of the earliest groups to settle in the Indian subcontinent from Central Asia and primarily inhabit the foothills of the Himalayas before the arrival of the Indo-Aryans.

According to certain historical writings, the term referring to the Khas in Sanskrit was “Gorakkha,” which translates to “protectors of cattle.” This term refers to their mode of livelihood and socio-cultural characteristics. With the rise of Buddhism in the Himalayan region in the thirteenth century C.E., the Sanskrit term underwent certain modifications in pronunciation in accordance with the Pali language. Therefore, it is believed to have transformed to “Gorkha” from “Gorakkha.”<sup>2</sup>

In terms of their presence in India, it can be said that in the Indian context, the term Gorkhas refers to an indigenous population that has been living in the Himalayan belt and the North-Eastern regions of India. Their presence can also be seen in areas such as *Jammu and Kashmir, Sikkim, Darjeeling, Himachal Pradesh, Assam, and other North-Eastern states in India*. Instead of referring to a homogeneous tribe, it can be said that the Indian community known as Gorkha is composed of various tribes and ethnic groups that are functioning as a whole. When it is seen in terms of documented historical narratives, it can be said that the history of the Indian Gorkhas is mainly discussed in terms of the period of British colonial expansion in India. Instead, it can also be said that these various tribes and ethnic groups have gradually evolved as a whole over time. When the East India Company came to India, it can be said that the presence of Gorkhas was already established in northern and north-eastern India. When it is seen in terms of historical narratives, it can be said that one of the most important events in the history of Gorkhas is the **Anglo-Gorkha War**, which took place in 1814 between the East India Company and the Nepalese kingdom. As a result of this event, it can be said that there was a division in terms of the presence of the Gorkha people. While one part of this division remained in the Kingdom of Nepal, another part came to be located in areas ruled by the East India Company. When India became independent, this part came to be known as the **Indian Gorkhas**.<sup>2</sup>

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<sup>1</sup> *The Mahabharata*, Sacred Texts, <https://www.sacred-texts.com/hin/maha/>.<sup>2</sup>

Ludwig F. Stiller, *The Rise of the House of Gorkha* (1973).

<sup>2</sup> T.B. Subba, *Ethnicity, State, and Development: A Case Study of the Gorkhaland Movement in Darjeeling* (1992),

### **Origin of the Gorkhaland Movement:**

The roots of the Gorkhaland movement go back to the struggle for the cultural, linguistic, and political identity and security of the Gorkhas, i.e., the Nepali-speaking people living in the Darjeeling hills. Before the advent of the movement for the formation of a separate state, the Gorkhas of Darjeeling had already begun a movement for the recognition of the Nepali language as an integral part of their cultural identity.

The awareness regarding the linguistic identity of the Gorkhas was generated before the advent of Indian independence. An important figure in this phase was **Parasmani Pradhan**, who played a crucial role in developing the Nepali language and its literature in the Darjeeling hills. His publication of the first Nepali literary magazine, *Chandrika*, and the formation of the Nepali **Sahitya Sammelan** in 1924 helped the various ethnic groups living in the Darjeeling hills to come together and raise their voices for their cultural identity.

After the advent of Indian independence, the movement for the recognition of the Nepali language under the Indian constitution gained momentum. The Gorkhas, as a linguistic identity, organized meetings, processions, and strikes, though the movement was largely peaceful in nature. In spite of the fact that the Gorkhas, as a community, had a high sense of patriotism, as evidenced by their participation in **Netaji Subhas Chandra Bose's Indian National Army**, the Nepali language was at one point termed a foreign language by the Chairman of the Official Language Commission, which led to a high level of alienation from the movement, as the Gorkhas were often accused of being foreigners despite their long stay in India.

The language movement took an organized turn in 1956 when Ananda Singh Thapa, editor of *Jagat Gorkha*, presented a memorandum to the Official Language Commission to include Nepali in the Eighth Schedule of the Constitution. Even though this demand was not accepted in the beginning, the sustained movement forced the West Bengal government to accept Nepali as an official language in 1961. Yet this did not address the broader political and cultural insecurities in an effective way. The language movement resumed with renewed fervor in the 1970s and 1990s. Around 1990, it acquired national significance when the Sikkim government, under Nar Bahadur Bhandari, came out in support of this movement through the formation of the ***Bharatiya Nepali Rashtriya Parishad***. As more and more political parties joined this movement, it finally resulted in the **Seventy-First Constitutional Amendment Act, 1992**, which formally included Nepali in

the Eighth Schedule of the Indian Constitution. This is seen as a historic victory for the people living in the hills of Darjeeling. Along with this linguistic movement, there have been demands for a separate administrative and political entity for the Darjeeling hills since as early as 1907, when a memorandum was presented to the British government by the hill leaders. During *World War II*, this movement was resumed in the form of a demand for self-rule in the district by the **All India Gorkha League in 1943**.

The movement took on a more intense and political form during the 1980s under the leadership of Subhash Ghisingh of the **Gorkha National Liberation Front (GNLF)**. This movement was further shaped by the fear and insecurity of people following the expulsion of Nepali-speaking people from Assam and Meghalaya. They were pushed into West Bengal and Nepal without any proper assistance from either the government or the Nepalese government. All these incidents instilled a sense of insecurity in the minds of Gorkhas in Darjeeling, which further strengthened their demand for a separate state to ensure political security.

It may be noted that the Gorkhaland movement did not emerge as a sudden movement for a separate state but rather as a culmination of decades of linguistic assertion, cultural mobilization, and political marginalization, gradually taking a definite shape as a movement for constitutional recognition and self-rule within the Indian federal system.<sup>3</sup>

### **Central Theme: Constitutional Aspect vs. Administrative Negotiation:**

This movement of Gorkhaland comes with a Fundamental tension between the constitutional aspect and administrative negotiation. Constitutionally, the demand for a separate Gorkha community state legally falls under Article 3 of the Constitution of India, which empowers the Parliament to create or alter existing states, as referred by the Supreme Court in *Babulal Parate v. State of Bombay*.<sup>4</sup> Activists of the Gorkhaland movement seek internal self-determination under Article 1 of the Constitution of India, without threatening India's territorial integrity. However, instead of invoking this constitutional way, the Union and State governments are continuously following Administrative negotiation. Through Institutions like the Darjeeling Gorkha Hill Council and Later the Gorkhaland Territorial Administration, which ruled through the state

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<sup>3</sup> *What Gorkhaland Means for a Non-Darjeelingey Gorkha*, The Darjeeling Chronicle (Apr. 26, 2018), <https://thedarjeelingchronicle.com/what-gorkhaland-means-for-a-non-darjeelingey-gorkha/>.

<sup>4</sup> *Babulal Parate v. State of Bombay*, A.I.R. 1960 S.C. 51

legislation and executive delegates rather than the constitutional framework.<sup>5</sup> While this movement aims to address cultural identity and infrastructural conditions from the aspect of decentralization, it lacks constitutional stability, legislative sovereignty, and financial independence, rendering them politically contingent and revocable. Thus, the Gorkhaland issue shows how administrative negotiation functions as a conflict management strategy, preserving federal stability and the territorial boundaries of the state. Yet simultaneously exposing the limits of executive accommodation when confronted with a constitutionally legitimate demand for statehood.

### **CORE PROBLEMS:**

After having done such serious research on the history, it is evident that even after several protests, and semi- autonomous bodies have not been able to provide a proper solution to the Gorkhas demand. Which clearly indicates that they are lacking in Transparent and accountable leadership – one who can guide them and motivate everyone to come along with him/her and collectively focus on their demands so that they can grab the attention of the Union government. The major problem of the Gorkhaland movement is the shifting of power from one person to a group of people formed to display the so-called “Leadership” that is not even visible to the Gorkha community. The only thing these so-called leaders should realize is that even their single decision can harm the whole community, so they should at least use their power wisely. A sense of Democracy should be installed in their minds. “Gorkhaland is purely a matter of safeguarding identity”, Mr. Shankar. “When we compare the demand for Gorkhaland with the state of Telangana, Uttarakhand, etc., we can see that the sole reason for their demand is from a development point of view. But this is not in the Gorkhaland case. However, this doesn’t mean that development is not a major factor in the Northern part of West Bengal (i.e., Darjeeling). Still, even after all the subsequent factor IDENTITY is the primary force of the movement. Hence, this is not a fight for the separation of Gorkhas from India but for a fight for Indians to retain who they are!”<sup>6</sup>

### **Research Gaps & Research Questions:**

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<sup>5</sup> INDIA CONST. arts. 1, 3, 244A & sched. VI, available at <https://www.indiacode.nic.in>.

<sup>6</sup> *A Crisis Within Crisis: The Fault Line of India’s Longest Statehood Demand – Gorkhaland Movement*, Youth Ki Awaaz (Aug. 7, 2018), <https://www.youthkiawaaz.com/2018/08/a-crisis-within-crisis-the-fault-line-of-indiaslongest-statehood-demand-gorkhaland-mov/>.

After reviewing the existing literature on the Gorkhaland movement, we can clearly see the inclination of the Gorkha people's emotions towards the demand of statehood, often believing the formation of a new state as the primary solution with the guidance of the Constitution. However, the most important research gap is in critically examining the Constitutional boundaries and governing responsibilities of the GOI in responding to such demands.

One of the major gaps lies in the absence of a deep analysis of the government interlocutor mechanism itself. While this appointment of government interlocutors plays a major role in resolving regional and ethnic movements in Darjeeling, there are very few scholarships for youth assessing their needs, practical relevance, and contribution to democratic engagement from the perspective of the center

Moreover, a maximum of the research papers, articles, and literature texts underplay the national security and territorial integrity concerns associated with movements held in the Himalayan region of India. The approach of the Government of India is often criticized without even understanding that it's the constitutional obligation to ensure stability, particularly in the area of the international border

- What do you think, to what extent is the Constitution of India trying to enable or restrict the formation of new states based on regions marked by ethnic diversity and strategic sensitivity?
- What is the core reason of the GOI for not fulfilling the demand of Gorkhaland since 1986?
  - What role does the Government of India's Interlocutor play in balancing democratic roots with maintaining Federal stability and National security?
- Why is the state government opposing the appointment of the current union government interlocutor?

By addressing these questions, the article tries to shape the Gorkhaland debate within a framework that considers both the democratic aspect of the Gorkha community and the policy obligation to the Union of India.

### **Objectives of the study:**

The present study needs a critical examination of the Gorkhaland movement by discussing it within the broader ambit of our Constitutional and administrative framework under the Indian federal

system. It would be unfair if we approached this issue solely as a regional or territorial demand. The core objective of this research is to assess the legal validity, administrative governance, and federal implications of the movement. By doing so, this research aims to show you the outer world beyond protest-centric narratives and contribute to a more nuanced understanding of how the Indian state responds to identity-based demands.

The first objective of the study is to explore the constitutional framework of the Gorkhaland demand. This demand of the Gorkhaland state is frequently stated as a constitutional right, which is grounded under the principle of federalism, self-governance, Own identity, and democratic representation. However, the Constitution of India does not provide any automatic or enforceable power for the formation of a state to any group or region. The creation of a whole new state is a political and legislative process followed by the parliament, subject to procedural safeguards and surely considering the national interest. This study focuses on analyzing whether the Gorkhaland demand is supported by constitutional provisions or whether it remains a political aspiration that must be evaluated within the discretionary framework of constitutional governance.<sup>7</sup>

The second objective focuses on analyzing the role of the Government Interlocuter in resolving the Gorkhaland movement issue. The appointment of an interlocutor has emerged as a smart administrative strategy by the Government of India to resolve the complex regional and identity disputes. In the case of Gorkhaland, the interlocutor mechanism represents the effort of the Government of India to know the ground-level perspectives of the Gorkha community, to prevent the escalation of the conflict, and to represent the Government of India at the surface level so that the voice of the Gorkha community can be heard by the Government.<sup>9</sup> This study targets to assess the interlocutor's role as not a mediator between the Union and Gorkha community, but as a governance instrument that reflects the Union Government's preference for a negotiated solution on this issue of Gorkhaland. By analyzing the function, responsibility, power, and limitation of interlocutor's forces, the research seek to choose whether such appointments plays meaningfully to dispute resolution or merely serve as temporary stabilizing instrument.

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<sup>7</sup> Granville Austin, *The Indian Constitution: Cornerstone of a Nation* (Oxford Univ. Press 1966).<sup>9</sup>  
M.P. Jain, *Indian Constitutional Law* (LexisNexis, latest ed.).

The third objective of the study is to explore the limitations of administrative negotiations in noticing this long-standing constitutional demand for Gorkhaland. Administrative strategies such as autonomous councils, tripartite agreements and development boards have been formed in Darjeeling as an alternative to statehood. While these mechanisms have succeeded in dissolving immediate tensions and restoring administrative neutrality, they have often been criticized for lacking proper governance, legal clarity, and financial autonomy. By doing so, it aims to understand why administrative negotiations, despite their strategic appeal, have failed to provide long term solution of this Gorkhaland debate.

The fourth objective of the study is to evaluate the impact of identity-based movements on the principal of Indian federalism. India's federal structure is uniquely arranged because of its linguistic, cultural, and ethnic diversity within a strong central framework. Movement such as Gorkhaland raises important questions about how identity-based claims can be implied without disturbing federal stability and national unity. This study aims to analyze whether such movement like Gorkhaland strengthen federalism by focusing on democratic participation, or whether they create pressures that challenge the flexibility of the federal system. By discussing so, the research examines the balance that the Government of India should maintain between recognizing regional identities and preventing the polity from being fermented.

Collectively, these objectives are designed by an understanding that the Gorkhaland issue cannot reduced between statehood and suppression. Instead, it represents a complex situation between constitutional aspirations, administrative governance, and federal responsibility. The study seeks to highlight that the Government of India operates within the framework of the Constitution, where decisions regarding the state are not only influenced by regional demand but also by national security, administrative flexibility, and political arrangements. By focusing on this perspective, the research seeks to contribute to a more balanced explanation that acknowledges both the legitimacy of regional aspirations and the constitutional aspect of the Union Government.

Ultimately, the core objectives of this study reflect an attempt to restructure the Gorkhaland debate as a Constitutional and administrative challenge rather than merely a political movement. By examining the legal foundations of the demand, the study aspires to provide a overall analysis that can include and inform policy, scholarship, and future negotiations. By doing so , it makes me feel

the importance of constitutional dialogue, institutional working, and federal wisdom in addressing the identity-based movements within a diverse democracy like India.

**Methodology:**

The present study includes a Doctrinal research methodology to discuss the constitutional and administrative aspect of the Gorkhaland issue. Doctrinal research, also known as “Black-letter law” research, involves a full structured analysis of legal maxims, constitutional provisions, judicial interpretations and etc.<sup>8</sup> It was seen that the demand for Gorkhaland raises questions primarily on the constitutional responsibility, federal structure, and governing mechanisms. This method allows the researcher to interpret the relevant legal framework and to discuss for what extent to which the demand the government can think and establishes constitutional principles.

Key features of this research include concentrating on the constitutional provisions that pertain to the issue. It is based on Article 3 of the Constitution of India which grants the power to the Parliament to create new states and modify boundaries of existing states. This provision is analyzed to see whether the demand for statehood can be considered an enforceable constitutional claim or a matter of legislative discretion. Moreover, another key feature involves analyzing Article 244A of the Constitution of India with the purpose of finding out the possibility of setting up autonomous states in some parts of India and how this is relevant in the context of the Gorkhaland issue. In addition, the Sixth Schedule is analyzed because it allows for autonomous district councils in the areas of tribes..

Apart from the constitutional aspects, the present study will make use of various government documents like policies and reports published by the Ministry of Home Affairs and other concerned government agencies. These government reports offer some valuable understanding about the policies, negotiation strategies, and administrative rationalization that goes on behind the scenes. Various issues such as the appointment of the Government Interlocutors, the creation of various autonomous organizations, and the signing of tripartite agreements have been analyzed

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<sup>8</sup> M.P. Jain, *Indian Constitutional Law* (LexisNexis, latest ed.).

with reference to these communications and reports for an understanding of the administrative rational thinking in them.

The research also addresses judicial precedents interpreted by the federal principle, powers of parliament under Article 3, and overall the constitution discretionary doctrine. The judiciary has often been cautious when it comes to matters relating to reorganization of territory. The related case laws are discussed to understand the extent of judicial review in the matter of state formation and the constitutional limits of executive and legislative powers.

Secondary legal materials including academic articles and comments, and negotiated governance in India are used in addition to primary legal materials. These materials are necessary to position the discussion in a broader academic discourse and provide theoretical and comparative background for analyzing the Gorkhaland issue. The identification of deficiencies in governance, especially with respect to the interlocutor and negotiated governance mechanisms, as methods of federal governance.

This is a study that is both descriptive and analytical in nature. It is descriptive because it chronicles the development of the Gorkhaland Movement and examines the constitutional and administrative responses that have been taken against the said movements. It is analytical because it assesses the effectiveness, legality, and federal consequences of these actions. The analysis will also ensure that this research is both based on a legal perspective and recognizes the limits of the law. With this approach, the research hopes to examine the Gorkhaland issue in a balanced manner.

### **Analysis:**

The current research paper titled “Gorkhaland: Debate on Constitutional Aspects and Administrative Negotiations in India” gives a holistic and multifaceted study of the Gorkhaland issue by analyzing its significance from the perspective of constitutional law, administration, and Indian federalism. The study effectively steers clear of traditional interpretations of the movement that consider it a regional or emotional issue and highlights the issue’s complexity as an interplay of legality and politics. The paper is built upon a central thesis that, despite having constitutional backing through Article 3 of the Indian Constitution, the reactions of the Union and State Governments have been more driven by administrative negotiations than constitutional changes.

This dual approach is the core idea of the study and serves as a solid theoretical base for the research.<sup>9</sup>

One of the most important strengths of the paper lies in the way in which the movement for Gorkhaland is historicized and contextualized in its development from the assertion of culture and language to the actual demand for statehood. The paper clearly demonstrates that through the process of recognizing the Nepali language and socio-political developments in the Darjeeling hills, the movement can be seen as a legitimate response to a series of social and political processes rather than just a political movement.<sup>10</sup>

Moreover, the research paper shows great doctrinal clarity with respect to the use of constitutional principles such as Articles 3, Article 1, Article 244A, and the Sixth Schedule. The paper correctly points out that the Indian Constitution does not provide the right to statehood in any form but merely a procedure for creation. Such a nuanced argument prevents it from being reduced to an extremely simplified perspective. Another important point is the assessment made by the study regarding the effectiveness of administrative bodies such as the Darjeeling Gorkha Hill Council and the Gorkhaland Territorial Administration. According to the paper, these bodies have proven their efficiency in defusing the situation, but they lack constitutional support, financial independence, and sustainability. It is highly important since it demonstrates the inefficiency of executive measures that should be applied to solving constitutional issues.<sup>11</sup>

Finally, it is worth mentioning the research gap highlighted by the authors. The authors correctly identify the need to conduct research focusing on the government interlocutor and the neglect of national security considerations by other researchers. In doing so, they make a valuable contribution to academic discussion. However, although the article has theoretical merit, there are several shortcomings in the paper. First, the engagement with judicial precedents is rather weak and fails to provide a thorough analysis of relevant cases on Article 3 and judicial review of the process of state formation. This would have improved the legal scholarship of the paper. Another drawback of the paper is its tendency to generalize the strategy adopted by the Government of

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<sup>9</sup> Louise Tillin, *Remapping India: New States and Their Political Origins* (Oxford Univ. Press 2013).

<sup>10</sup> Rekha Saxena, *Situating Federalism: Mechanisms of Intergovernmental Relations in Canada and India* (Manohar 2006).

<sup>11</sup> Sanjib Baruah, *India Against Itself: Assam and the Politics of Nationality* (Univ. of Pa. Press 1999).

India without providing sufficient empirical support from either data or comparative studies on other state formation movements, for example, those of Telangana or Uttarakhand.<sup>12</sup>

Moreover, there are issues regarding the language used in the paper. Several parts of the paper contain grammar mistakes and colloquial expressions that make the whole paper less scholarly in nature. Therefore, adopting a more formal writing style would benefit the paper in terms of credibility and clarity. Besides, some portions of the paper are normative and subjective, especially in the case of discussions on the topic of leadership problems. Regarding analytical rigor, the paper shows good results by covering the constitutional, administrative, and socio-political aspects of the problem. It adequately explains that the Gorkhaland struggle is not only about reorganization but also a matter of identity, representation, and federal equilibrium. The paper also does a good job by identifying the quandary of the Indian government between fulfilling democratic desires and protecting national security and territorial integrity.<sup>13</sup>

### **Conclusion:**

The Gorkhaland movement is far from being just a movement for demanding a separate state. On the contrary, it can be viewed as a long-term process through which the community sought to prove their right to identify themselves as an ethnic group and to enjoy the corresponding rights in terms of language, politics, and administration in the Indian federation. Starting with the historical development of the cultural formation among the Nepali-speaking Gorkha community and ending with the movement for the demand of a state, the history of the Gorkhaland movement exemplifies the complicated interaction between ethnicity and constitutionalism in the country.

From this analysis, one can clearly infer that the Constitution of India does not confer any automatic right to form another state, but what it gives is a proper procedure laid out under Article 3 by which Parliament can modify state boundaries. Therefore, from this perspective, the demand for Gorkhaland could be described as constitutional possibility, but not constitutional guarantee. What can also be inferred is the fact that both Union and State governments' continuous use of administrative means, such as setting up autonomous councils and development boards and

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<sup>12</sup> T.B. Subba, *Ethnicity, State, and Development* (1992).

<sup>13</sup> Ministry of Home Affairs, Govt. of India, <https://www.mha.gov.in>.

holding dialogues via the interlocutor, implies their preference for compromise over structural change.

The inability to arrive at a permanent arrangement clearly points out that any sort of administrative compromise cannot be successful without any constitutional commitment. Thus, in the case of the Gorkhaland demand, we find the dilemma in which democracy is placed between federal harmony and the desire for greater self-expression. The Gorkhaland example also teaches us that governance in a multi-cultural democracy does not consist of solving crisis situations but rather of providing leadership in an atmosphere of trust, based on sincere efforts towards meeting genuine concerns of marginalized communities.

Finally, the whole story of the Gorkhaland movement in general terms presents the way the Constitution of India deals with regional claims of the type of identity politics. How far the Gorkhaland demand will be met in the future is largely going to depend on whether the state government is capable of handling its three aspects of governance - democratic representation, administrative efficiency, and national integrity - in such a way that it is just and sustainable.