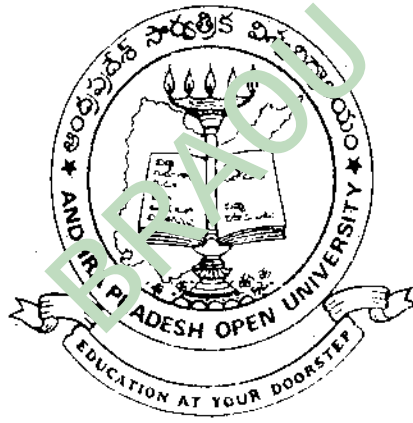


INDIAN GOVERNMENT AND POLITICS



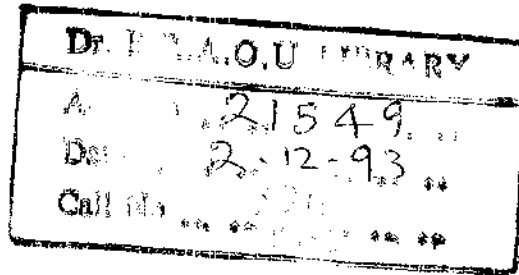
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Prof. K. Madhusudhan Reddy (Editor)
Prof. F.D. Vakil
Dr. Ravindra Sastry
Dr. V. Krishna Rao
Dr. M. Ram Chander

ASSOCIATE EDITOR
Dr. T.S. Mohana
Dr. M. Sathyanarayana Rao



Cover design :
Chandra

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Aims and objectives

This book deals with the topics in Indian Government and Politics included in the syllabus for the second year of the B.A. Course offered by the Andhra Pradesh Open University. These topics cover the 'core area' of the subject to be studied in the second year of the three-year degree course in Arts. The Syllabus is, for the sake of convenience, divided into Blocks, each of which comprises of a number of units. Each Block generally covers a specific area of the subject.

The units are prepared by specialists in accordance with a format so designed as to enable the students units read and understand them without much difficulty. Each unit begins with a statement of its objectives followed by a synopsis and has at its end model question intended to test the student's comprehension of its subject matter.

The study of the Indian government and politics assumes importance in the context of India being the largest democratic polity in the world with nearly 378 million voters and came into being as sovereign democratic republic barely three decades back. A study of the Indian Constitution and the political processes that influence the Indian political system hence assumes importance.

The framers of our Constitution evolved a political machinery not only to govern the country but also to make efforts in order to achieve socio-economic development without which the infant Indian democratic polity cannot rest on sound foundations and last long. A mere democratic set-up cannot transform the country into a sovereign democratic polity unless the burning problems like the mass-illiteracy, unemployment and poverty are tackled on war footing by taking up gigantic programmes.

A Constitution which seeks to establish a socialistic, secular and democratic republic cannot realise the objectives unless the masses are involved in the political process. Hence the need to educate the younger generations about what the government expects from them in achieving the targets that ensure the establishment of a welfare-oriented state.

This apart, the growing dichotomy between the institutions of the constitution, i.e., the way in which the political institutions are expected to function and the way in which they are actually functioning must be explained in order to get a clear picture about theory and practice involved in the functioning of political institutions. In other words the factors that influence the working of the constitution should be made known to the future citizens of India.

A mere study of the political machinery evolved by the constitution is not enough. We must also study political processes that have an impact on the working of the political institutions like Parliament, Prime Minister and the Council of Ministers, federal frame-work, is very much essential. For example, the fluctuating fortunes of the Congress party have always influenced the working pattern of centre-state relations. So long as the Congress was strong and in power both at the centre as well as in most of the states, centre-state relations remained more or less normal. However, with the change of government at the Centre, i.e., the emergence of Janata Government in 1977, centre-state relations became more complicated and the non-Congress governments in states like Jammu and Kashmir, West Bengal and Tamilnadu demanded a review of the constitutional provisions covering the centre-state relations. So, therefore, the working of party system has an impact on the working of the political machinery envisaged in the constitution.

A political system mostly based on the western concepts of popular democracy and political institutions have been superimposed on our traditional society steeped in deep divisions of caste, region, religion and language, etc. Hence the dichotomy between the theory and practice.

Without having an insight into the social and economic factors which organise themselves into several pressure-groups and influence the working of the Indian Constitution, one cannot understand and estimate the functioning of our political system. Hence the title **INDIAN GOVERNMENT AND POLITICS**.

As the title of the present paper suggests; it is divided broadly into two parts. The first part deals with a detailed study of the institutional framework as envisaged by the constitution. It starts with the beginnings of the constitutional reforms during the freedom struggle and explains the important measures like the 1909, 1919, 1935 Government of India Acts which sought to establish some democratic institutions such as provincial legislatures, responsible governments, etc., in the British provinces. While discussing these aspects attention is paid to the circumstances which were the result of the pace of the national movement.

Then the main institutions established by the Constitution like the Parliament, (its composition, functions and the changing role) the President, Prime Minister, Council of Ministers have been discussed in detail in order to give the student a clear picture of the constitutional position of these institutions.

At the same time keeping in view the importance of certain aspects of these institutions which are not covered by the Constitution are also discussed in detail. For example the Constitution does not record the actual functioning of these institutions. It only lays down the ground rules which the institutions are supposed to follow and function accordingly. Therefore, aspects involving the actual functioning such as the position of the Prime Minister under the Indian political system or the emerging trends in centre-state relations are discussed in detail to enlighten the student on the operative aspects of the constitution.

Besides the above topics the first part also includes a study of the constitutional machinery of the state governments such as the office of the Governor, Chief Minister, and the Council of Ministers. Composition and the functions of the State Legislature and High Court have been included.

Union-State relations occupy the most important place in study of our Constitution. Therefore, two units are devoted to describe in detail the constitutional aspects of the Centre-State relations and also to explain the recent trends and patterns that have emerged in Centre-State relations.

Besides explaining the political institutions there are some units on the fundamental rights of the citizens and the directive principles of the state policy. Rights occupy a pre-eminent position in a democratic policy. Hence they are discussed in detail.

Our Constitution not only describes the rights of the people but also prescribe certain directives to the governments to follow in order to initiate socio-economic and public welfare measures under the caption, "The Directive Principles of the State Policy". Though they are constitutionally considered to be pious resolutions and sans legal validity yet their political importance cannot be minimised in view of the populist policies of the union and state governments. Hence the implications and the controversies revolving around the directive principles have been discussed and analysed in detail.

The units under the second part deal with the politics in India. As it has already been mentioned the objective is to provide the student an insight into the forces that operate and influence the working of the constitution. Hence units on a few aspects of the political process such as the role of caste, communalism, regionalism and the politics of linguism have been included. Problems of the party politics, the organisation and the working of the political parties - both national and regional - are discussed in detail. Attention is paid to the role of the pressure groups and protest movements in Indian politics.

A study of the Indian politics would not be complete without discussing the problem of national integration which has acquired national importance of late. Hence an unit on this important aspect.

Finally, aspects of Andhra Pradesh politics such as the emergence of Andhra Pradesh, freedom struggle in Telangana and the Coastal Andhra, and electoral trends in the state have also been included with a view to equip the student with the knowledge of politics of Andhra Pradesh.

While discussing various topics efforts have also been made in evaluating the actual functioning of the political institutions so that the student will get some understanding about the difference between theory and practice.

The University hopes that this material will help the student to get acquainted with the principal issues in Indian Government and Politics which make for its distinctiveness and significance.

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INDIAN GOVERNMENT AND POLITICS

Contents

Page No.

Block I	: Basic Features	
Unit 1	: Historical Background, Colonial Rule : Beginnings of Nationalism.	2
Unit 2	: Indian National Movement : Different Phases : Triumph of Nationalism.	8
Unit 3	: Constituent Assembly and its work	17
Unit 4	: The Indian Constitution and its Features	25
Block II	: Main Institutions	
Unit 5	: Parliament	33
Unit 6	: Parliamentary Procedures	39
Unit 7	: Changing Role of Indian Parliament	48
Unit 8	: The President - Election, Powers and Functions	55
Unit 9	: The President and Relation between the President and the Cabinet	62
Unit 10	: Prime Minister and the Cabinet	68
Unit 11	: Patterns of State Governments - Legislatures	73
Unit 12	: Patterns of State Governments - Executive and Judiciary	80
Unit 13	: Union-State Relations	90
Unit 14	: Trends in Centre - State Relations	98
Block III	: Judiciary	
Unit 15	: Organisation of the Judiciary	111
Unit 16	: Judicial Review	116
Unit 17	: Constitutional Amendments	123
Block IV	: Fundamental Rights	
Unit 18	: Fundamental Rights	133
Unit 19	: Meaning and Scope of Fundamental Rights	137
Unit 20	: Civil Liberties	144
Unit 21	: Directive Principles : The Changing Perspective	156
Block V	: Politics in India	
Unit 22	: Problems of Party Politics in India	163
Unit 23	: Political Parties - National	167
Unit 24	: Political Parties - Regional	175
Unit 25	: Influence of Socio-Economic Factors on Indian Politics	183
Unit 26	: Women in Indian Politics - Problems and Prospects	188
Unit 27	: Protest Movements	197
Block VI	: Issues	
Unit 28	: National Integration - Problems and Prospects	209
Block VII	: A.P.State Politics	
Unit 29	: Evolution of the State of Andhra Pradesh - Freedom struggle in Telangana and Andhra and Origins of the State	217
Unit 30	: Political Developments in Andhra Pradesh	225
Unit 31	: Electoral Trends in the State - The Phenomenon of Telugu Desam Party.	233

Block - I : BASIC ISSUES

Unit- 1: The Historical Background Colonial Rule : An Overview

Contents

- 1.0 Objectives
- 1.1 Introduction
- 1.2 Advent of East India Company
- 1.3 Consolidation of Company's Rule
- 1.4 Impact of Western Education
- 1.5 Effect of English or European system
- 1.6 Early 19th century demand for Reform
- 1.7 1857 First War of Independence
- 1.8 The British response
- 1.9 The Indian Councils Act of 1861
- 1.10 Minto-Morley Reforms
- 1.11 Summing Up
- 1.12 Suggested Readings
- 1.13 Model Questions

1.0 Objectives

After going through this unit you will be able to :

- * Explain the Historical background of Indian Nationalist Movement.
- * Discuss different enactments till 1909.

1.1 Introduction

The aim of this unit is to provide a broad historical background to the Indian Nationalist Movement. Beginning with the East India Company, the unit surveys the impact of Western ideas and education on Indian minds and analyses the 1857 War of Independence. Subsequent Parliamentary Acts till 1909 are also discussed.

1.2 Advent of East India Company

The British came to India to trade but stayed to rule. The East India Company, which was formed in London for exploring the profitable eastern market, came to India at the end of 1600. Though their designs were commercial to start with, they gradually extended their activities to other fields such as warfare and administration. Within 150 years of its establishment, the East India Company emerged as a powerful political force administering vast territories initially in the name of the Moghul emperor and later on its own right. Initially it established the three Presidencies of Bengal, Bombay and Madras. This was done at a time when the Moghul empire and the Southern Kingdoms were crumbling.

With the establishment of the East India Company's political power, the British began exploiting India's economic resources by a series of devices. So corrupt were the activities of the East India Company that the House of commons in England passed a resolution of condemnation. Sir George Cornwall Lewi's statement in the Parliament in 1858 reveals the state of affairs of the East India company. "I do most confidently maintain that no civilized Government ever existed on the face of this earth which was more corrupt, more perfidious and more rapacious than the government of the East India company from 1765 to 1784"

The British advent in India saw the export of wealth from India which turned into an uninterrupted economic drain on the country. It is this aspect which made Dadabai Naoroji to expound the "Theory of Drain"

1.3 East India Company's Consolidation

With the spread of Company rule in India, the British Parliament began to evince greater interest in India's administration. Trying to consolidate its authority, the Parliament enacted the Regulating Act in 1773. According to this Act, it was not the Company, but the Crown which appointed the Governor-General, the members of the Bengal Council and the Supreme Court in Calcutta. In 1784 Pitt's India Act was passed. This Act provided for the semblance of the Company's permanent power.

Further changes in the position of the company were instituted in 1833. The Act of 1833 upheld the company's right to administer India, but made it subject to the British Government control by inducting an official appointed by the Crown to the Bengal Council. This Act is an indication of the gradual control of the country by the Britishers. Eventually the British authorities were convinced that their domination was firmly entrenched. They decided gradually to do away with the Indian States by setting up a system of direct British administration throughout the Indian territories. Through the Doctrine of Lapse, the British authorities wiped out the States of Satara, Nagpur, Jhansi, Sambalpur between the years 1848 and 1858. As compensation for the debts of the Nizam of Hyderabad, the most developed cotton-growing area of Berar was taken away from the State. From 1831 onwards, the Mysore State came under the British administration. In 1856, Oudh was wiped off the map. Such moves had far reaching consequences on the economic and social conditions of the Indian masses.

The tradition of liberalism in India is much older than the formation of the Liberal Party as a separate forum of the Indian National Congress in the Year 1918. The tradition dates back to Raja Ram Mohan Roy who was the pioneer of all progressive movements in India including political progress.

Raja Ram Mohan Roy stressed the need to combine the past glory of India with the best of the Western values resulting from the British connection with India. In 1815, he set up a society named Arya Sabha, and in 1828 another known as Brahmo Samaj. This was the first social organisation in India of a modern type patterned on European models. Mahadeo Govind Ranade, Dadabhai Naoroji, Feroze Shah Mehta and Gopal Krishna Gokhale were some of the great personalities who were influenced by Victorian liberalism. The liberal tradition of pre-1918 era is well reflected in the speeches and writings of men like Dadabhai Naoroji, Mehta, Gokhale, and Surendranath Banerji.

Thomas Babington Macaulay, famous for his "Minute on Education" and to a great extent responsible for the introduction of English education in India, aimed at creating a class of persons. "Indian in blood and colour, but English in taste, in opinion, words and intellect," It was also his devout hope that the introduction of English education would result in the destruction of Hinduism and the conversion to Christianity on a large scale. Such was also the hope and faith of Sir Charles Trevelyan who was a member of the "Committee of Public Instruction." He believed that the "introduction of western education would shake Hindooism and Mohammadanism to their core and firmly establish our language and learning and ultimately our religion in India."

Education served as an instrument in disclosing the secrets of western nationalism and democratic ideas to Indians. It infused a new spirit in the struggle for national liberation. It brought a section of the intelligentsia into contact with the ideas and philosophies preached by Milton, Shelley, Byron, Mill, Rousseau, Mazzini and Garibaldi.

Through study of English the Indian intelligentsia learnt how the British brought to an end the feudalism, the medievalism, and the absolutism of medieval monarchs essentially based upon the Divine Right Theory and how they established in its place sovereignty of the people, political democracy and individual liberty. One can measure the impact of western ideas on the intelligentsia by the speeches

of Surendranath Banerjee, who extolled the British values. Raja Ram Mohan Roy opposed the starting of a Sanskrit College in Calcutta. He demanded that the money be utilised for imparting a liberal and enlightened system of instruction through the means of English. In due course, various social organisations like the Brahmo samaj, the Arya Samaj, the Ramakrishna Mission, the Aligarh movement, founded institutions for imparting modern education throughout India. Though critical of some aspects of western education, their curriculum imbibed the good points of western education. The British bureaucracy was lukewarm towards the education of the masses within half-a-century of the introduction of western education. The fact was that the Britishers were afraid that the western liberal ideas may be used by the Indian for attainment of their objectives of freedom.

1.5 Effect of English or European System

Educated Indian, who had become Europeanised, either kept aloof from their countrymen or helped the British. But out of educated Indians there also emerged a group which noticed how westernised Indian belittled their scriptures and their culture. In the latter half of the 19th century, the foremost among them was Dayanand Saraswati, the founder of the Arya Samaj. He asked the people to revert back to the Vedas and their ancient system of education. He did this without boycotting the western system. Indian scholars searched their archives and discovered texts about India's historic past. Further, many revivalists not content with discovering the glories of ancient India in religious matters only, studied history to find out the great attainments and heroism of Indians in political and military fields. For example, Shivaji became a household name. As a result, a new school of militant nationalism emerged in India and projected the relevance of ancient values for modern India.

Check Your Progress - 1

1. What is the impact of western Education in India?

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1.6 Early 19th Century Demand for Reform

In the early 19th century, the demands for reform, voiced in England by the Utilitarians and the Evangelicals, were soon felt in India. Under pressure from English reformers, the Government took action against those Hindu customs which were offensive to Western sensibility. The reforms brought outcries of protest from the orthodox, particularly against the outlawing of Sati. But such measures won the approval of many reform-minded Hindus like Raja Ram Mohan Ray who were trying to bring about a renaissance in India.

The urge for renaissance was not confined to Hindus alone. Muslim revivalism appeared first in the shape of the Wahabi movement under the leadership of Shah Abdul Aziz. This movement was anti-British to the core. Another figure who raised the banner of Islamic reformism was Sir Sayyid Ahmad Khan, who tried to resolve the conflict between religion and science. He tried to regenerate the Muslim community on modern lines while retaining its essential character.

1.7 1857 - First war of Independence

Nationalism in India, having grown up in its own separate environment, had its own individual personality and distinctive character. It was in the first place, a product of the British rule being a reaction and a protest against foreign usurpation of national liberty and a by-product of European liberalism.

"Nationalism united the most divisive interest, reactionary, progressive and anarchist, millionaire and pauper, Hindu and Muslim. Between them there was no agreement on what was to replace the existing order: the only bond of union was the will to end the British regime."

In 1857 came the first visible outburst of the forces of revolution against the British rule in India, wrongly labelled as the Sepoy Mutiny.

"The outbreak of 1857 would surely go down in the history as the first great and direct challenge to the British rule in India, on extreme scale. As such it inspired the genuine national movement for the freedom of Indians from the British yoke, which started half a century later."

More than a challenge to foreign domination, it was a brave act, in fact a war, to restore Indian sovereignty. More than any thing, it destroyed the myth of British invincibility. As a prelude to the 1857 uprising, the political, cultural, social and economic situation had undergone a change. Percival Spear describes the change in the following words, "the rise of the new middle class is the most significant creation of the British in India. But the revolt spread no farther than the Doab and parts of Central India. It was mercilessly suppressed."

The 1857 uprising is a landmark in the history of India. It brought to surface the relative weakness of the economic and social basis of the British rule. Nehru recounted in his book "The Discovery of India" "Though the revolt had directly affected only certain parts of the country, it had shaken up the whole of India and particularly, the British administration."

1.8 The British Response

The event compelled the British authorities to introduce substantial changes in the system of colonial administration. The East India Company was abolished and the Crown assumed direct control through the Act of 1958. India was henceforth to be governed by and in the name of Her Majesty the Queen. The British Governor-General was given the title of Viceroy and thus became the direct representative of the British Crown in the country.

1.9 The Indian Councils Act of 1861

This Act was known as the Parliamentary Act of 1861. This Act initiated the process of legislative decentralization. It enlarged the membership of the Central Legislature, restricted the activities of the Legislative Council to legislation only restored legislative power to the Legislature in the Presidencies and enabled in the establishment of Provincial legislatures. It empowered the Governor-General to legislate by Ordinances. Instead of the Executive Council dealing with every item of business within its competence, responsibility for all but the more important points in specific subjects was delegated to the individual members of the executive council. This was the first step towards Cabinet government.

In response to the political developments that occurred particularly after 1885, the Indian Councils Act 1861 was amended by an Act of 1892. This act of constitutional reform stemmed from the liberalism of the British liberal party which was in power then. The Act introduced a measure of local self Government and provided for an element of representation albeit indirectly.

1.10 Minto-Morley Reforms

In further response to the demands of nationalism, the Minto-Morley Reforms Act of 1909 was enacted. The act was an improvement upon the Act of 1892 though the Indian National Congress expressed its resentment over it. The 1909 Act was passed not to loosen the grip of British rule in India but to strengthen it. The British policy of "divide and rule" was introduced by providing separate electorates for different communities of India. This policy of the British strengthened the forces of nationalism.

1.11 Summing up

The British came to India to trade but stayed to rule. The East India Company consolidated its position and became a political organisation. The introduction of English education system awakened the Indians. A number of reform movements were started. 1857 revolution was the first great and direct challenge to the British rule in India. As a result of which East India company was abolished. British Sovereign assumed the authority over India directly. British government introduced a number of reforms in India. The British introduced the policy of "Divide and Rule."

1.12 Suggested Readings

1. Bipin Chandra : The History of Indian National Movement

1.13 Model Questions

I. Answer the following questions in about 30 lines.

1. Explain the beginnings of the East India company rule in India
2. Discuss the impact of Western Ideas and Education on Indian Nationalism during the early 19th century.
3. Examine the causes of 1857 war of Independence.
4. What was the British response to the 1857 war of Independence.

II. Answer the following questions in about 10 lines.

1. To what extent was Raja Ram Mohan Roy influenced by Western Ideas?
2. Discuss Minto-Morley Reforms.
3. Examine the effect of English or European system on Indian educated elites.

Prof.F.D.Vakil

Unit - 2 : Indian National Movement : Different Phase

Contents

- 2.0 Objectives
- 2.1 Introduction
- 2.2 The Birth of Indian National Congress
- 2.3 The three phases of Congress
- 2.4 The Rise of Extremists
- 2.5 The Act of 1919
- 2.6 The Terrorist Movement
- 2.7 World War I and Nationalist Movement
- 2.8 Advent of Gandhi
- 2.9 The End of Khilafat Movement
- 2.10 Struggle within Congress
 - 2.10.1 Swarajya Party
 - 2.10.2 New Forces within Congress
- 2.11 New Non-cooperation Movement
- 2.12 Gandhi - Irwin Pact 1931
- 2.13 The Second Round Table Conference
- 2.14 Congress Socialist Party
- 2.15 The Act of 1935
- 2.16 The Quit India Movement
- 2.17 The Cabinet Mission
- 2.18 The Interim Government
- 2.19 The Mountbatten Plan
- 2.20 The Indian Independence Act of 1947
- 2.21 Summing Up
- 2.22 Suggested Readings
- 2.23 Model Questions

2.0 Objectives

After going through this unit you will be able to

- * Discuss different phases of Indian National Movement.
- * Analyse the acts of the Government till 1947.

2.1 Introduction

This unit traces the different phases of the Indian National Congress from 1888 to 1947. The challenges of Indian Nationalism at various stages are analysed. The triumph of nationalism culminating in the Indian Independence Act of 1947 is also discussed.

2.2 The Birth of the Indian National Congress

By the last decade of the 19th century the climate of political opinion in India had begun to change. Repeated droughts and famines caused widespread misery

The economic misery of the middle class due to rise in prices and increase in unemployment and the high-handed methods of the British authorities in dealing with dissent and discontent served to radically transform the temper of the English educated Indians in 1890s.

The Indian National Congress was an outcome of liberalism. Its first twenty years coincided with the ascendancy of the Tory Party in Britain. It relied on the democratic spirit of the Birth. But the apathy of the Britishers in conceding even small demands disillusioned those who launched the movement with great faith and hope in the sense of justice and freedom of the British people.

In the year 1883 Surendranth Banerjee who was dismissed on insufficient grounds from the Indian Civil service founded the Indian National Conference. In the same year a retired English Civil Servant. A.O. Hume addressed an open letter to the graduates of Calcutta University, urging the organisation of an association for political regeneration of India - what as he later said might form "the germ of a Native Parliament." With the merger of the two, the Indian National Congress was founded at Bombay. It sought through its resolutions made at its annual meetings to arouse the British conscience. The liberals who dominated the Congress from 1885 to 1905 had almost unlimited faith in British democracy. In the early years, the Government regarded Congress favourably as a "Safety valve" but remained insensitive to its petitions and resolutions. Meanwhile, as the liberals who dominated the Congress brought greater pressure on the Government of the association.

2.3 The Three Phases of the Congress

Let us discuss the three phases of the history of the Indian National Congress.

The first phase lasted from 1888 to 1905. This period represented moderate nationalism. The Congress had not yet become revolutionary. Its leaders professed loyalty to the British Crown but wanted liberalisation of their rule.

The second phase lasted from 1906 to 1918. This was the period when Congress entered a militant stage. This period also saw the Muslims withdrawing from the Congress. The third phase started with the passing of the Government of India Act of 1919 and ended with the independence of India in 1947. This period was associated with the Gandhian era. This period saw the moderates leaving the Congress.

In the first phase of its history, the Congress was dominated by moderate nationalists. These moderates had reposed faith in the British sense of justice and fair play. They were opposed to agitation and unconstitutional means. Their method of activity was through public debates, propaganda, petitions, demonstrations and deputations. The British showed no response to their demands.

2.4 The Rise of the Extremists

Though in the 1890s articulation of its demands by the Congress became more militant, Aurobindo Ghosh made a scathing attack on the Indian National Congress. He denounced its supplicant ways, accused its leaders of timidity and lack of vision and declared that it was a failure. He charged that the Congress instead of following the revolutionary methods of France, Italy, America and Ireland had followed slavishly the English model, which was unsuited to India.

Already a rebellious feeling was emerging in the younger generation. The formidable personality of Bal Gangadhar Tilak emerged to galvanise the radical nationalism. He struck a new note in the contemporary politics. He aggressively projected the hopes and aspirations of the vast multitude of Indians through the journals "Kesari" and "Maratha". Through the columns of these papers, he spread the doctrine of political liberty, economic and social justice. He combined active politics with a revolutionary understanding of Gita's philosophy which together inspired him to put forth the profound concepts of Swarajya and Karmayoga.

Tilak firmly believed that enlightenment of the people through western education was a crucial segment of political consciousness, progress and mass awakening. The entire thrust of his position was that the struggle against the British rule required unity of purpose and unswerving adherence to the ultimate goal

His political thought represented a synthesis of the dominant strands of Indian thought with ideas of nationalism and democracy of the West.

Tilak told the masses that the moderates could not deliver the goods and people should look to the extremists for the liberation of their country. He thundered: "Swarajya belongs to us by birth right... Swarajya is my birth right, I will have it". The rise of the radical nationalism in 1890s was at once a conservative and a revolutionary phenomenon. As seen from Tilak's strategy, radical nationalism drew its inspiration, on the one hand, from Hindu religion and Indian way of life and on the other hand, it tried to apply to the Indian situation the methods of mass agitation and even terrorism. The tide of Western liberalism began to recede by the end of the 19th century.

The forces of radicalism and extremist nationalism gained impetus in the first decade of the 20th century. The triumph of Japan, revolutionary trends in Russia, the rise of the Sinn Féin movement in Ireland, the Egyptians' struggle for freedom, the Young Turk revolt, all these happenings had their impact on nationalist extremists. The partition of Bengal by Lord Curzon in 1905 finally discredited the Moderates. The rebels within the Congress who called for extreme steps besides Aurobindo and Tilak were Bipin Chandrapal, and Lajpat Rai. They argued that political freedom was preliminary to all national progress. To them, foreign rule was a curse. Loyalty to British rule was incompatible with patriotism, they dismissed British justice and liberty as mere delusion.

The Bombay session of the Congress saw the ascendancy of the extremist school and the decline of the influence of the Moderates.

Mrs. Annie Besant and Tilak started the Home Rule Movement in 1916. The movement reached its height in 1917. The British authorities interned Annie Besant which resulted in an agitation throughout the country. Tilak threatened large scale passive resistance. The Britishers who were, mean while alarmed at the reaction of the Indian masses, responded by promising responsible Government to the people of India in stages. A year later a scheme called the Montagu Report was announced recommending direct election on a very limited franchise, and transfer of some important departments to Indian Members.

2.5 The Act of 1919

The Act of 1919 took the first step towards responsible government in India and introduced Dyarchy. The Indian people were not satisfied with the share of authority given by the Act of 1919. Non-co-operation, civil disobedience movement and terroristic activities started. A statutory commission known as Simon Commission was sent from England to study the working of the Act of 1919. The Commission was boycotted by Indians.

2.6 The Terrorist Movement

The terrorist movement was an important offshoot of the Indian nationalist movement. The movement had its beginning towards the end of 19th century and the beginning of the 20th Century.

The terrorist movement was one of the phase of militant nationalism although it differed radically from political extremism as represented by Tilak. The revolutionaries did not believe in methods of appeal, persuasion and peaceful struggle. They were convinced that without violence it would be difficult to uproot imperialism.

Lord Curzon's reactionary rule gave rise to a number of terrorist groups in Bengal, Maharashtra, Punjab and several other provinces. Revolutionaries like Shyamaji Krishna Varma and Vinayak Damodar Savarkar in Maharashtra. Barendra Kumar Ghose, younger brother of Aurobindo Ghosh, Bhupendranath Dutt, brother of Swami Viveknanda in Bengal were the famous personalities who carried on the revolutionary work.

A number of revolutionary societies were formed in Bengal and Maharashtra.

In 1908 the first terrorist acts were enacted in Bengal and Maharashtra. The British Government unleashed massive repressive measures. The revolutionary movement was very active in Bengal and Punjab during 1913-16.

Check Your Progress - 1

- A. Who were the Extremists ?
 - B. Who were the Terrorists?
 - C. Who were the Moderates?
-
-
-
-

There were many causes for the decline of the terrorist movement in India.

- 1. It was confined to a small circle of young men and there was no public backing.
- 2. The movement had no central organisation to direct its activities.
- 3. The upper middle class leadership was not sympathetic towards this movement.
- 4. The emergence of Mahatma Gandhi led to the gradual decline of the movement.

2.7 World War I and National Movement

During this period the Congress had undergone changes due to the tacit understanding between the moderates and extremists.

The political atmosphere in the country was surcharged not only by the passing of the repressive Rowlatt Act but also by the massacre of hundreds of Indians at Jallianwallah Bagh in Amritsar. To curb the liberties of the people the Rowlatt Act was enacted provoking widespread opposition.

2.8 Advent of Gandhi - Third Phase

The Third phase could be regarded as Gandhiji's movement and not that of the Congress. The Congress had, however, become much different from what it was during Tilak's movement. It lacked widespread following or organised support, both liberal constitutionalism and extremist militancy amidst the backdrop of successive repressive Acts and the consequences of World War I failed to provide the necessary leadership.

Returning in 1915 from South Africa where he had developed his technique of Satyagraha in dealing with the race issue, Gandhiji toured widely to observe the Indian scene. "Gandhi, himself driven by uncommon moral energy, proved remarkably successful in giving to the Congress a new direction, a powerful organisational base and a mass following".

The Congress under the leadership of Gandhi decided to start a non-co-operation movement in 1920. This move of Gandhi was indeed a revolutionary step. For the first time, the congress followed a policy of direct action.

There were development which made Gandhi realize his folly in having complete faith in the British sense of justice and fair-play. Moreover, while Gandhi gave his unstinted co-operation to the British during the

First World War, the tragedy of Jallianwalla Bagh, the Martial Law in Punjab and the findings of the Hunter Committee destroyed Gandhiji's faith in the good sense of the British.

Throughout the war, a section of Muslim intelligentsia expressed resentment, even hostility, against the Government over the Turkish question and a number of Muslims suffered imprisonment. Leaders like Maulana Abul kalam Azad and Maulana Mohammed Ali were arrested.

The terms of the Treaty of SEVRES, which was entered into between Turkey and the Allies, were very harsh and were resented by Muslims in India. This resulted in the Khilafat Conference. The Khilafat Movement was launched and Mahatma Gandhi identified himself with that Movement.

The movement created an unprecedented awakening among the Muslims awakening in which they were ready to join the Nationalist struggle against the British. The Congress, the Muslim League, the Khilafat Conference, and another Muslim organisation, the Jamait-e-Ulema were now working in close collaboration with one another, the Congress being the leader.

At the 1920 Congress Session, the main resolution was related to non-co-operation movement in all its forms.

The Civil Disobedience campaign which had begun on August 1, 1920 took the form of rallies, demonstrations and hartals.

Gandhiji emerged as the most powerful influencing factor on Congress. He and his supporters consolidated their position in the Congress.

The Nagpur Congress Session of 1931 saw the emergence of Gandhism as a philosophy. The session adopted the political tactics and the political programme of Gandhi. His philosophy had become the official ideology of Congress. The organisation was transformed into a mass political organisation.

The impact of the non-co-operation movement was tremendous. There was wholesale burning of foreign goods. Many students left their schools and colleges.

The Government followed a policy of repression, more so when there was a wave of protest by the masses against the visit of the Prince of Wales on 1st Nov. 1921. There were nearly 30,000 political prisoners by the beginning of 1922.

2.9. End of Khilafat movement

In 1923 the revolutionary movement in Turkey resulted in the deposition of the Sultan and the abolition of the Khilafat. This demoralised the political leadership of the Muslims. The Moplah uprising in Malabar in order to create a Khilafat State underscored a communal stance. There occurred a number of Hindu-Muslim riots at a number of places in the country.

But whatever might have been the weakness of the non-co-operation movement then the fact is that it gave the country a strong and highly organised party organisation. Swadeshi became popular. Khadi became the uniform of the Indian patriots. Hindi became a lingua franca for the whole country. Gandhiji had converted a national movement into a revolutionary movement.

2.10 Struggle within Congress

1921-1923 was a critical phase for the Congress. The mass movement went into decline resulting in a search for new tactics. There was no large-scale withdrawal of the masses from the Congress but there emerged two factions within the party. Gandhi and his supporters preferred the status quo. The main form

of activity at this stage were: encouragement of handicrafts, hand-spinning, struggle against untouchability and propagation of Hindu-Muslim unity.

The second group was led by C.R.Das and Motilal Nehru. They were critical of Gandhi's action. This group opposed involvement of the masses in political struggle and held that Swaraj should be won from within, in that Congress members should gain control of the Central and Provincial Legislatures.

2.10.1 Swarajya Party

The Gaya Session of Congress in 1922 which was held under C.R.Das's Presidentship failed to get Swarajist programme approved by the Congress (C.R.Das in Jail formulated the scheme of Swarajya party). This resulted in a fierce struggle within the party. Gandhi had to make major concessions to the Swarajyaists. The Gandhi - C.R.Das agreement saw the surrender of Gandhi's Non-Co-operation Movement as the main activity of the Congress.

2.10.2 New Forces within the Congress

Discontent within the Congress at the position adopted by the leadership led to the emergence of a new force who advocated an active struggle against the colonial regime. The main younger elements who emerged during this period were Jawaharlal Nehru and Subhas Chandra Bose. Both were regarded as theoreticians. They were ardent followers of Gandhi.

At the end of 1927, the new forces within the National Congress became a good deal stronger than they had been in the past. The Madras session of the Congress adopted a resolution proposed by Jawaharlal Nehru stating that the main aim of the Indian liberation movement was to attain Purna Swaraj (i.e. complete independence)

In July 1928 the report of the committee chaired by Pandit Motilal Nehru was published. But it was ignored by the Simon Commission. This was a great blow to the Moderates within the Congress.

2.11 New Non-Co-Operation Movement

At the Lahore session of the National Congress in 1929 presided over by Jawaharlal Nehru, a resolution was adopted calling for the organisation of a new non-co-operation movement. Subsequently on Jan. 26, 1930, Independence Day was celebrated throughout the country. This was the beginning of a new civil non-co-operation movement. A civil disobedience programme was prepared and launched. Mahatma Gandhi started the famous Dandi March on 12 March, 1930. Thousands of Congress volunteers were arrested. The British Government let loose repressive measures. The Congress boycotted the First Round Table Conference in London.

2.12 Gandhi-Irwin Pact 1931.

As a result of Gandhi - Irwin Pact in 1931, the Congress halted the civil non-co-operation movement. Gandhiji agreed to take part in the work of the Second Round Table Conference in London.

The Karachi Session (1931) of the National Congress approved Gandhi's stand. The Congress in its sessions drew up an economic and social programme. They re-affirmed that the main aim of their struggle was to obtain Purna Swaraj.

The radical stance of the Congress was seen by a document ratified at this session entitled, "Fundamental Rights and Economic programme". This document set forth the principles of democratic freedom in India.

2.13 The Second Round Table Conference

Gandhiji was the sole representative of the Congress at the Second Round Table Conference. Nothing much was achieved in this conference on account of Jinnah.

At the Third Round Table Conference the British Government unilaterally announced the Communal Award. This was seen as a manifestation of British Government's Policy of dividing the Hindus and Muslims.

2.14 Congress-Socialist Party

During the year 1934, there emerged two main trends within the Congress the Right-Wing led by Gandhiji and the radical left wing led by Subhas Chandra Bose and Nehru. Meanwhile socialist leader like Ashok Mehta, Jaya Prakash Narayan, Acharya Narendra Dev set up a Congress-Socialist party within the Congress framework. The vital task for this party was the organisation of the mass struggle by the working people and the creation of a firm social foundation of the Congress among the workers and the peasants. It was during this phase of the Congress, that Gandhiji left the party and worked with the masses for a constructive programme (Hindu-Muslim unity), the struggle against untouchability, promotion of spinning and small scale industry.

2.15 The Act of 1935

During the 1934 Elections, the Congress retained its dominant influence, when it gained more than half of the votes and seats in the Central Legislative Assembly. The British response to the growing Indian nationalism was the introduction of the 1935 Act.

In the Act of 1935, a federal system of government was provided for India.

However, the federal provisions were never brought into effect. Significantly the provisions of the Act relating to the provinces were implemented and in the elections that were held to the Provincial Legislature, the Congress gained majorities in seven states. But the refusal by the Congress to share power with the Muslim League resulted in the demand for a separate State for Muslims. Nevertheless the Act to a great extent helped us while framing the Indian Constitution after Independence.

2.16 The Quit India Movement

Sir Stafford Cripps' proposals gave the people of India the right of making their constitution after the Second World War. The Congress was critical of the Cripps Mission's attitude of "Leave it or take it." The All India Congress Committee passed the famous "Quit India" resolution on 9th August, 1942. In response Gandhi declared that the struggle to implement it would take the form of a mass civil disobedience campaign. The resolution declared "that the immediate ending of the British rule in India was an urgent necessity both for the sake of India and the cause of the United Nations." The Committee requested Gandhiji to take the lead.

The immediate effect of the Quit India Resolution was the arrest of Gandhiji and all the members of the Working Committee of All India Congress Committee. The Indian National Congress was banned. The people reacted in the form of a revolt. In many parts of the country, there was complete collapse of the machinery of the Government.

Jinnah's response to the 'Quit India' was communal. He declared that the object of the movement was not only to turn the Englishmen out of this country but also to subjugate the Muslims and the Muslim League.

The Muslim League had asked the Muslims to keep aloof from the movement. It raised the slogan of "Divide and Quit". They insisted that India will have to be divided.

2.17 The Cabinet Mission

In 1946, the Cabinet Mission appointed by the Labour Ministry came to study the situation. The Mission made the following suggestions:

- 1) That a Union of British India and Indian States was to be established.
- 2) That the paramountcy of the Crown was to cease.
- 3) That a Constituent Assembly was to be formed.
- 4) That an Interim Government was to work till the Constitution was framed.

The Cabinet Mission sincerely tried to bring an accord between the Muslim League and the Congress, but it was of no avail. Meanwhile the British declared its policy of creating working conditions for the Constituent Assembly of a kind, which would have impeded and eventually made an impossible agreement between the Congress and Muslim League. It was clear that the British ruling circles were inclined to support the Muslim League in its efforts to dismember the country by setting up the separate state of Pakistan.

The Muslim League declared direct Action Day on 16th August, 1946. This resulted in large-scale killings of people and property worth crores of rupees was destroyed.

2.18 The Interim Government

Nehru formed the Interim Government on September 2, 1946. The Muslim League reacted violently. Nevertheless they joined the Interim government only to create chaos. The working of the Interim Government was a failure as the League continued its boycott of the Constituent Assembly.

The 1946 Post-War Session of the Congress held in Meerut under the Presidentship of Acharya J.B. Kripalani, approved the political course to be followed by the National Congress and spoke out in favour of India becoming a Sovereign Republic.

2.19 The Mountbatten Plan

The Mountbatten Plan was the prelude to the culmination of the Indian nationalism in its struggle for Independence. Atlee's Labour Government declared that the British would leave India not later than July, 1948. Mountbatten was appointed the new Viceroy

The Congress and Muslim League approved the declaration.

The Mountbatten plan dealt with the following :

1. Setting up of two dominions (India and Pakistan) in the sub-continent.
2. The question as to the partition of Punjab and Bengal on religious grounds was to be decided by separate votes.
3. A referendum was to be held in the North - West Frontier Province and the Sylhet district of Assam, which was mainly populated by Muslims.
4. The future of Sind was to be decided by a vote to be taken in the Provincial Legislature.

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5. The incorporation of the princely states into one of the dominions would be a question for their rulers to divide.
6. The Constituent Assembly would consist of two Assemblies, one for each dominion and they would determine the future Status of the two States.

The National Congress realised that the British were determined to divide the country. Hence to avoid further bloodshed, the Congress agreed to accept the "Mountbatten Plan."

2.20 The Indian Independence Act of 1947

The British Parliament passed the Indian Independence Act, 1947 which provided that on August 15, 1947, the two independent Dominions of India and Pakistan, would come into existence. The Act divested the British Parliament of its control over India and made India and Pakistan two sovereign Independent States.

2.21 Summing Up

The birth of Indian National Congress was an outcome of liberalism. In the beginning it relied on the democratic spirit of the British. There were three phases the history of Indian National Congress. The first period represented moderate nationalism. During the second phase starting from 1906 the congress entered a militant phase. The third phase is identified with Mahatma Gandhi. Congress under the leadership of Mahatma Gandhi launched various non-violence movements and Satyagraha. The British passed various reform Acts to appease Indian opinion. During the Second World War British government sent a number of delegations to enlist the congress into their war effort. Ultimately the congress passed the famous Quit India resolution. Finally the British yielded and passed the Indian Independence Act transferring power to the two independent unions known as India and Pakistan.

2.22 Suggested Readings

1. Bipin Chandra : The History of the Indian National Movement

2.23 Model Questions

I. Answer the following questions in about 30 lines

1. Trace the birth of Indian National Congress
2. The terrorist movement was an important offshoot of Indian Nationalist movement - comment.
3. To what extent can one justify the statement that "the third phase of National movement is regarded as Gandhi Movement and not the Congress"?
4. Examine the Mountbatten Plan.

II. Answer the following questions in about 15 lines

1. Discuss the role of Moderates in the Congress during the years 1885 to 1905.
2. What were the causes of the Revolutionary Movement?
3. Examine Tilak's role in the Extremist Movement.
4. Examine the nature of the Khilafat Movement.

Unit - 3 Constituent Assembly and its Work

Contents

- 3.0 Objectives
- 3.1 Introduction
- 3.2 Cripps Proposals
- 3.3 Cabinet Mission Plan
- 3.4 Constitution of Constituent Assembly
- 3.5 Composition of the Constituent Assembly
- 3.6 Constituent Assembly at work
- 3.7 Summing Up
- 3.8 Suggested Readings
- 3.9 Model Questions

3.0 Objectives

After going through this unit, you will be able to :

- * Explain the composition and working of the Constituent Assembly

3.1 Introduction

The Constitution of India is the result of the deliberations of the Constituent Assembly which was elected according to the procedure laid down by the Cabinet Mission plan.

The Constituent Assembly means a deliberative body which draws up the Constitution of a country. As a body that makes the fundamental laws of a country, it has a special dignity and importance. The making of a Constitution by a Constituent Assembly is not a new idea. For instance, the Constitution of U.S.A., Switzerland, France and the Weimer Republic are the products of either a Constituent Assembly or a Convention called for the specific purpose of Indian National Congress in the thirties already. It was implicit in the nationalist conception of Swaraj which has always been visualised as a democratic order and defined to include the right of Indians to frame their own Constitution. As early as 1922, Gandhiji put forward the idea that the future of the Country must be determined by freely chosen representatives of the people.

In response to a challenge by the Simon Commission to draft a Constitution acceptable to all the parties, the Congress convened an All Parties Conference in Delhi towards the end of February, 1928. After discussing the preliminaries, the Conference held its sittings at Bombay on May 29, 1928. It appointed a subcommittee under the presidentship of Pandit Motilal Nehru to draft a Constitution. The important provisions of the Constitution drafted by the subcommittee were (1) Dominion Status for India with full responsible form of Government, (2) Provincial autonomy, (3) Inclusion of Fundamental Rights in the Constitution (4) Bi-Cameral Legislature with representation to provinces in the Upper House, (5) Supreme Court which is to be the highest Court of the land and (6) Abolition of Communal Electorates but reservation of seats for minorities under joint electorates.

The Constitution drafted by the Sub-Committee was a masterly and statesman-like report. In a way it provided the blueprint for the present Indian Constitution. Though it was accepted unanimously by the All-parties Conference at Lucknow, difficulties arose later when it came up for scrutiny separately by the parties that met at Lucknow. But the Congress, by a resolution, welcomed the Constitutional Scheme put

forth by Nehru and issued an ultimatum to the British Government demanding the acceptance of the Constitution by the British before December 1929 failing which it said that it would organise a campaign of non-co-operation by advising the people to refuse to pay taxes. The British Government did not accept the proposals and the Congress launched the Civil disobedience Movement.

Later the Congress made a demand for a Constituent Assembly in 1934. The Faizpur Congress Session which rejected the Government of India Act 1935 proposed the formation of a Constituent Assembly as a constructive alternative. In a resolution it stated, "The Congress stands for a genuine state in India where power has been transferred to the people as a whole and the Government is under their effective control. Such a State can only come into existence through a Constituent Assembly having the power to determine finally the Constitution of the Country".

In 1938 Jawaharlal Nehru advocated that the Constitution of free-India should be framed without outside interference, by a Constituent Assembly elected on the basis of adult franchise. This point of view of Nehru was endorsed by the working Committee of the Congress in 1939. Supporting this view Gandhiji said that it is a remedy for communal and other tensions besides being a vehicle for mass political Education. In his view, a Constituent Assembly alone can provide a Constitution indigenous to the country and truly representing the people.

The outbreak of Second World War in 1939 brought the issue of Indian freedom and with it the idea of the Constituent Assembly to the forefront. For the first time the British Government recognised the principle that Indians should themselves frame a new Constitution for their country. But the steps taken towards the realisation of this principle were slow, halting and reluctant as it was also committed to the principle that any decision about the future status of India would have to be taken by the Congress and the Muslim League together.

3.2 The Cripp's Proposals

With a view to giving effect to this policy, Sir-Stafford Cripps, a member of the British Cabinet was sent to India in March, 1942, with a declaration of the proposals of the British Government. The Cripps proposals as they are known were based on the idea that the Constitution of India was to be framed by an elected Constituent Assembly of the Indian people, that the Constitution so framed would give India an equal partnership in the British Commonwealth of Nations, and that there would be one Indian Union comprising all the provinces and the Indian States.

The Constituent Assembly would be composed as follows, unless the leaders of Indian opinion agreed upon some other form before the end of war. The members of the Lower House of the Provincial Legislatures would form an electoral college to elect the members of the Constituent Assembly on the basis of proportional representation. The Assembly was to have about one tenth of the total number of members of the former. The Indian States shall be invited to nominate their representatives.

The Muslim League as expected insisted on division of India into two autonomous states on communal lines and that the Muslim majority provinces should form an independent Muslim State to be known as Pakistan. It also insisted on having a separate Constituent Assembly for Pakistan.

3.3 Cabinet Mission Plan

The rejection of the Cripps proposals was followed by the Quit-India Movement launched by the Congress in 1942 and the convening of the Simla Conference by the Viceroy Lord Wavell. The Simla Conference

failed to bring an agreement between the Congress and the League. Another attempt was made by the British Government in May 1946 when it sent a delegation consisting of three cabinet Ministers to India with a plan known as the Cabinet Mission Plan. This was the last serious effort made by the British Government to maintain the unity of India. While rejecting the League's claim for a separate Constituent Assembly and a separate state it gave ample scope for the Muslim majority provinces to organize themselves into an autonomous state, short of secession from the Union of India.

The Mission felt the need for suggesting the broad basis of a future Constitution because without doing so there was hardly any hope of persuading the Hindus and Muslims to join hands in the setting up of the Constitution-making body. Hence it proposed the formation of a Constituent Assembly consisting of 383 members of which 93 representatives were to be from the states, 4 from the Chief Commissioner's Province and Baluchistan and the remaining 292 from the British India province. The seats allotted to the provinces shall be allocated to the main communities in proportion to their numerical strength in the population. Each province will send the representatives in the proportion of one to a million. The representatives allocated to each community in a province were to be elected by members of that Community in its legislative Assembly. The mission gave up the practice of giving weightage to the minorities. The representatives of the states, not exceeding 93 should be distributed among the states on the basis of the population of each state. The method of selecting the representatives to the Constituent Assembly from the native states was left to the consultation between the Assembly and the states' rulers. The negotiations between the States Committee of the Constituent Assembly and the representatives of the princes resulted in agreement that provided for the selection of 50% of the states, representatives and the rest to be nominated by the rulers. But it was hoped that a greater proportion would be elected.

Check Your Progress - 1

1. Who headed the Cabinet Mission Plan?

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3.4 Constitution of the Constituent Assembly

The proposed Constituent Assembly was not a sovereign body since it had to work within the framework outlined by the Cabinet Mission Plan. The Muslim League agreed to participate in the elections for the Constituent Assembly. In the elections that were held in July 1946, out of 210 general seats allotted to the British Provinces the Congress captured 199, Unionist party of Punjab 2, Communists 1, Scheduled Castes Federation 2, and independents 6. Out of the 78 Muslim seats the League got 73, Congress Muslims 3, the Punjab Unionist party and the Praja Party of Bengal one each. Consequently, in a House of 296 members, the Congress enjoyed the support of 202 members whereas the League commanded the support of 73 members. The huge majority of the Congress party in the Constituent Assembly irritated the Muslim League. Its bitterness also sprang from the Viceroy's refusal to form a provisional interim government with the League's help when the Congress was unwilling to join it. The position, however, soon became complicated on account of a Statement issued by the British Government on 6th September, 1946 to the effect that in case the Constituent Assembly framed a Constitution in which a large section of the Indian population had not been represented, they would not force such a constitution upon any unwilling parts of the country. Consequently when the Constituent Assembly met three days after the statement had been issued, the Muslim League Members refused to attend it. At the same time they raised the demand for the dissolution of the Constituent Assembly since it did not represent all sections of the Indian people. But the Constituent Assembly proceeded with its work of framing a constitution for the Union of India.

Following the acceptance of the plan of June 3 to partition the country, the members of the League from the Indian Dominion took their seats in the Assembly on July 14, 1947. The representatives of the States

of Baroda, Bikanir, Udaipur, Jaipur, Jodhpur, Rewa and Patiala entered the Assembly on 28th April 1947. The representatives of all the States with the exception of Kashmir and Hyderabad joined the Assembly by July 14, 1947. The Assembly thus became fully representative of the States as well as provinces. Kashmir joined it in October 1947 followed by Hyderabad in November, 1948.

The Constituent Assembly met for the first time in New Delhi on 9th December, 1946. The League members abstained from attending but the three Sikh members representing Akali Sikhs and a fourth one nominated by the Congress and the Congress attended it. The Constituent Assembly elected its seniormost member, Sir Sinha as its temporary President. Later it elected Dr. Rajendra Prasad as its permanent Chairman.

The partition of the sub-continent necessitated the creation of a separate Constituent Assembly for Pakistan. The Indian Independence Act 1947 was duly introduced in the British Parliament on 4th July, 1947 and received the royal Assent on 18th July, 1947. The Constituent Assembly of each Dominion was to have unlimited power to frame and adopt a Constitution. Further the Constituent Assembly was to function also as the Central Legislature of the country. Therefore it worked both as a Legislative and a Constituent body.

3.5 Composition of the Constituent Assembly

The Constituent Assembly which had been elected for undivided India and which held its first preliminary session on 9th December, 1946 reassembled on 14th August, 1947 as the Sovereign Constituent Assembly for the Dominion of India. The representatives of Bengal, Punjab, Sind, NWFP (Northwest Frontier Provinces), Baluchistan and the Sylhet district of Assam ceased to be members of the Constituent Assembly of India. There were fresh elections to the Assembly in the new provinces of West Bengal and East Punjab. As a result, when the Constituent Assembly reassembled on 1st October, 1947 the membership of the House was reduced to 299 from 383.

The representative character of the Constituent Assembly has sometimes been questioned on several grounds and particularly that it was not democratically elected. But in spite of the method of election of the members, it can be said that it was fairly representative of the Indian people. Commenting on the representative character of the Constituent Assembly, the then British Prime Minister Mr. Churchill said in the British Parliament that the Constituent Assembly which met on 9th December, 1946 represents only one religious group. Refuting the statement of Churchill, Rajendra Prasad, the Chairman of the Constituent Assembly, clarified that of the 210 members who attended the first meeting of the Constituent Assembly 154 were Hindus, 30 were Scheduled Castes and Scheduled Tribes, 5 were Sikhs, 6 were Hindus, 5 were Sikhs, 6 were Indian Christians, 3 were Anglo Indians, 3 were Parsees and 4 were Muslims. After the partition, the question of Communal representation was never again raised. From the composition of the Assembly it is evident that the Congress held a dominant position in it. Before the partition it had 69% of seats and after the partition the percentage increased to 82%.

Many prominent members of the Congress Party were elected to the Assembly. For instance, five former Presidents of the party, the then President, fourteen members of the Congress Working Committee, fourteen Presidents of the Provincial Congress Committees were elected to the Assembly. It was because of this that the Constituent Assembly was described as a Congress Assembly. But it must be mentioned that the Congress did make conscious efforts to include in the Assembly representatives of all important minorities, eminent men from different walks of life not withstanding their political views.

To ensure the election of persons with exceptional ability, the High Command instructed the provincial committees to elect such persons in spite of their ideological leanings. The Working Committee of the Congress secured the election of more than a dozen non-Congressmen to the Assembly because of their eminence in law, administration and national affairs. Prominent among them were Ambedkar, Alladi Krishnaswamy Aiyangar, H.N. Kunzru, N.G. Ayyangar, K. Santhanam, M.R. Jayakar, Lord Sinha and K.M. Munshi. The Working committee ensured through its recommendations due representation to Christians, Adivasis, Scheduled Castes and Women. As a result of this policy, the minority communities

were fully represented in the Constituent Assembly. After the partition there were 88 members representing the minorities from out of 235 members representing the provinces. K. Santhanam has rightly said that there was hardly any shade of Public opinion that was not represented in the Assembly with the exception of the Communist Party of India, the Socialist Party and the Hindu Maha Sabha. The Communists had a member in the Assembly but he had lost his seat as a result of the partition. However, there were Marxists and supporters of the Forward Block in the Assembly. The Socialists in the beginning did not join the Assembly since it was not acceptable to them to frame the Constitution within the framework of the Cabinet Mission Plan. But after independence they changed their view and Jaya Prakash Narayan wrote to Nehru that they will join the Assembly if invited. Though Nehru was willing to accommodate them nothing could be done for want of vacancies. In May, 1948, swayed by the non-cooperationists among them, the Socialist Party changed its stance and passed a resolution demanding the dissolution of the Assembly and its reconstitution based on adult franchise. Though the party as such was not represented there were many members who shared their views. The absence of Hindu Maha Sabha did not affect much since their views on the institutional aspects of the constitution differed very little with those of persons like M.R. Jayakar, Tandon and Shyam Prasad Mukerjee who were strong protagonists of Hindu Dharma and members of the Assembly and outside held social economic and political views ranging from the reactionary to the revolutionary and they did not hesitate to voice them. In fact Nehru said, way back in 1939 itself, that the Congress had within its fold many groups, widely differing in their view points and ideologies and it was natural and inevitable if the Congress was to be the mirror of the nation. The Constituent Assembly reflected the nation as such.

The Constituent Assembly had another unique feature. In 1948, there were 106 members representing provincial legislatures. Among them were six Provincial Prime Ministers and about a dozen Ministers. This was possible because the Assembly rules in 1946 permitted dual membership. Further, the Constituent Assembly was also a part of the Government, since it was to function as a Union Legislature till a new Constitution was adopted and a new legislature was elected. As a result there were 14 Union Ministers, 3 Ministers of State and 1 Deputy Minister in the Assembly. Members of the Union Council of Ministers who were not elected to the Constituent Assembly attended its proceedings by virtue of their membership in the Ministry. But they had no right to vote.

3.6 Constituent Assembly at Work

It is not an easy task to prepare a Constitutional document because the Constitution is the life of a nation and reflects the aspirations of its people. The Assembly decided to follow Committee System for framing the Constitution and appointed several Committees for the purpose.

Prominent among them were, Rules, Steering, Advisory, Drafting, Union Subjects, Union Constitution, Provincial Constitution and State Committees.

Granville Austin has pointed out that there were about twenty individuals who exercised a great deal of influence on the framing of the Constitution. They were Rajendra Prasad, Nehru, Sardar Patel, Azad, Ambedkar, Pattabhi Sitaramayya, Alladi Krishnaswami Aiyer, N.G. Ayyangar, K.M. Munshi, Lord Sinha, M.A. Ayyangar, Jairam Das Daulat Ram Shaniker Rao Deo, Durga Bai, Acharya Kripalani, T.T. Krishnama Chari, S.C. Mukherji, B.N. Rao and Saadullah, K. Santhanam. Among these twenty, Nehru and Patel wielded considerable influence and power in the Assembly. The leaders of the Assembly apart from holding important positions in the Congress and in the Union Government were national heroes and as such exercised a great deal of influence. Yet the decision making in the Assembly was democratic. Austin had rightly said that the Indian constitution expresses the will of the many rather than the needs of the few.

The first preliminary session of the Constituent Assembly opened in New Delhi at 11.00 a.m. on Monday the 9th December, 1946 under the temporary Chairmanship of Dr. Sinha. Nehru moved the Resolution of Aims and objectives. The debate on this resolution occupied the House for the rest of the session and was carried to the next session. On December 21, 1946 it appointed the States Committee to negotiate with the Princes the terms of their entry into the Constituent Assembly. The Assembly Adjourned on 23rd December, 1946.

During the Second Session which opened on 29th January, 1947 the Assembly set up a Steering Committee, a Committee on the Order of Business, the Advisory Committee of minorities, and the Union Powers Committee. It adopted on 22nd January, 1947 the Resolution on Aims and Objectives. The resolution states that India shall be a sovereign democratic state. It was also accepted that after the enforcement of the new Constitution, the provinces should be redistributed so as to make them homogenous units based on linguistic, cultural, administrative as well as economic considerations as soon as possible. Indians were at last free to shape their own destiny, to pursue their long cherished aims and aspirations and to create their own national institutions. The members of the Constituent Assembly thought that the Constitution could not by itself make a new India but they intended it to provide direction.

The makers of the Constitution intended to usher in a social change for the fulfilment of the basic needs of the common man. It was further hoped that this change would infuse energy and rationalism into Indian society. The various constitutional provisions like the parliamentary government, direct-elections, fundamental rights and directive principles and even some aspects of the executive, legislative and judicial provisions were intended to foster change by ensuring unity and stability. The need for national unity and stability considerably influenced the drafting of the federal, language and Legislative provisions of the Constitution. The framers of the Constitution borrowed some of the features from other Constitutions, as they wanted to be benefitted from their experience, but only such provisions which suited the Indian conditions. Besides, the present Constitution also borrowed most of the provisions from the Government of India Act 1935. Though they had several options before them regarding models to bring the desired socio-political change, they eventually decided in favour of such institutions with which they were already familiar i.e., the Westminster Model. One is rather surprised that the Gandhian model was not chosen inspite of his inspiration and influence on the members of the Assembly.

The Gandhian model envisages Village Panchayat which is to be a self-sufficient unit and which forms the primary political unit. The ideal of a revived village life with Panchayats playing a benevolent role bringing democracy to the grass-roots level appealed to the Assembly. Yet, it was not favoured as it was felt that it did not suit the prevailing conditions in the country.

The Assembly's decision to give India a Parliamentary system based on Westminster Model was made after due consideration. It is the Expert Committee set up by the Congress Working Committee headed by Nehru which recommended the adoption of this model.

The reports of the Union and Provincial Constitutions Committee recommended the adoption of this model. The Committee recommended a direct, Parliamentary and Federal Constitution borrowing freely from the 1935 Act. The minutes of the discussion of the Committee do not contain a single reference to the Gandhian model.

But the Gandhian Concept of Panchyat Raj found its way into the Directive Principles of State Policy. The belief of the members of the Constituent Assembly in Parliamentary Democracy seemed to be nearly universal. The makers of the constitution incorporated a chapter on Fundamental Rights and another on Directive Principles of State Policy as they thought that these were important to bring in the desired social change and democratic values.

The making of the Constitution really began at the third session which was held between 22nd April and 2nd May 1947. Nehru presented the report of Union Powers Committee and Patel submitted the Interim Report of the Advisory Committee on Fundamental Rights and Minorities. The Assembly began discussion on Fundamental Rights. It appointed Committees on Union Constitution and Provincial Constitution headed by Nehru and Patel respectively. The fourth session of the Assembly was held on July 14 and lasted till 1st July, 1947 after the decision to partition the country. It received a number of reports submitted by the various committees appointed by it. It began discussions on model provincial constitution, adopted the National Flag and began discussion on the principles of Union Constitution.

The fifth session of the Assembly was convened on the eve of the Independence day i.e 14th August, 1947. It debated on the second report on Union Powers which favoured a strong Centre. It also debated the report on Minorities, Fundamental Rights and Directive Principles of State Policy.

Name the Parliamentary system adopted by us.

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Finally the Constituent Assembly was set up on August 29, 1947 a drafting Committee of Seven members with Dr. Ambedkar as Chairman. The other members of the Committee were Alladi Krishnaswami Iyer, N.G. Ayyangar, K.M. Mushi, T.T. Krishnamachari, Mohammed Saadullah and N. Madhava Rao. Madhava Rao replaced B.L. Mithra. T.T. Krishnamachari was appointed to the Committee in the place of D.P. Khaitan who died. The Committee working on the draft provided by constitutional adviser B.N. Rao prepared a draft constitution on the basis of the decisions of the Constituent Assembly and the reports of its Committees and on the basis of the Government of India Act of 1935 on matters which neither the Constituent Assembly nor its Committees investigated. The work of the Committee was of crucial importance. The consideration presented the draft constitution on 21st February 1948 for the consideration of the Assembly and it was published in the same month. A long interval of eight months provided an opportunity for a nationwide discussion of the draft by the public, press and the Provincial Assemblies.

The general discussion of the draft constitution began in the Constituent Assembly on 4th November and lasted till 9th November, 1948. This was followed by the consideration stage on November 15 which lasted till October 17, 1949. During this stage 7635 amendments were tabled of which 2473 were discussed. The third reading of the Constitution Bill began in November, 1949. It was finally adopted by the Constituent Assembly on 26th November, 1949. The Chairman and the other members of the Committee defended the draft of the Constitution and answered the points raised and convinced the members of the Assembly on various aspects of the Constitution. Some of the writers of Indian Constitution expressed that the members had little time to raise any discussion since much of the time had been taken in listening to the Chairman of the Committee.

3.7 Summing Up

In all, the Assembly sat in eleven sessions covering 165 days of which 114 days were devoted for considering the draft constitution.

The final session of the assembly was held on January 24, 1950 when it unanimously elected Dr. Rajendra Prasad as the first President of the Republic of India under the new Constitution. With this act the work of the Constituent Assembly was over. On 26th January 1950 Prasad assumed office of the president of the Republic of India and the Constituent Assembly became the provisional Parliament of India under the transitional provisions of the new Constitution.

3.8 Suggested Readings

M.V.Pylee : Constitutional History of India

3.9 Model Questions

- I. Answer the following questions in about 30 lines
- I. Discuss the proposals of Cabinet Mission Plan.

2. Describe the Composition of the Constituent Assembly

II. Answer the following questions in about 10 lines

1. Describe the proposals of Motilal Nehru's sub-committee on the Draft-Constitution of 1928.
2. Examine Cripp's proposals

Dr. M. Ramachander

BRAOU

Unit - 4 : The Indian Constitution and It's Features

Contents

- 4.0 Objectives
- 4.1 Introduction
- 4.2 Preamble
- 4.3 Federal Structure
- 4.4 Parliamentary System
- 4.5 Independent Judiciary
- 4.6 Single Constitution and Single Citizenship
- 4.7 Fundamental Rights and Directive Principles
- 4.8 Summing Up
- 4.9 Suggested Readings
- 4.10 Model Questions

4.0 Objectives

After going through this unit you will be able to :

- * Trace the evolution of the Constitutional Government
- * Enumerate the basic features of the Indian Constitution

4.1 Introduction

A constitution is a document, which embodies the basic rules of governance in a politically organised society. Constitution or constitutionalism has emerged as a reaction to the arbitrary rule. In the process of historical developments in western societies, representative governments have evolved in which constitution, has come to be established as the organic law of the land.

In general, a constitution is understood to be a legal document embodying the institutional framework for the achievement of aims and objectives of the State. Having won political freedom from the British colonial rule, the framers of the Indian constitution gave a lot of thought to evolve a suitable constitution for many compromises and concessions. The landmarks of Indian constitutional developments, like the Acts of 1919 and 1935, have had great impact on shaping the Indian constitution.

It is interesting to note that the Indian constitution combines the ideas of western liberalism, Democratic socialism and Gandhism. Long and continuous association with the British rule brought us into contact with Western liberal institutions such as Republican, Democratic, Secular and Federal systems and an independent Judiciary. Similarly, the ideas of welfare state and social justice have found a place in Part IV of the Indian Constitution. The impact of Gandhian philosophy is also seen in the provisions of the Directive Principles. It is in this context that Prof. Ivor Jennings has described the Indian Constitution "as the finest constitution in the world".

4.2 Preamble

The origin of the objectives of our constitution can be traced back to the famous historic Objective Resolution moved by Nehru on December 13, 1946, subsequently adopted by the Constituent Assembly on 22nd January, 1947. The main points of the Objective Resolution were

- (1) Declaring India as an independent Sovereign Republic and to draft a constitution.
- (2) India shall comprise all such territories of British India, Indian States and such other States willing to be constituted into the Sovereign Indian Republic.
- (3) All the powers and authority of the various organs of government shall be derived from the people.

- (4) Ensuring to all the citizens of India justice, social, economic and political; equality of status, of opportunity before the law; freedom of thought, expression, belief, faith and association.
- (5) Providing adequate safeguards for minorities, backward and tribal areas and backward classes.
- (6) Strengthening of international peace and security.

The Indian Constitution has been prefaced by a preamble which reflects the basic philosophy of the constitution. In other words, the preamble gives a key to the understanding of the nature of the constitution. In short the preamble provides the central theme of the constitution in a nutshell. Even though the preamble does not constitute an organic part of the constitution, it enshrines the ideals and objectives of the constitution. The preamble starts with "We the people of India, having solemnly resolved to constitute India into a Sovereign, Socialist, Secular and Democratic Republic and to secure to all its citizens Justice, social, economic and political; Liberty of thought, expression, faith, belief and worship; equality, assuring the dignity of the individual and the unity and integrity of the nation; In our constituent assembly, this 26th day of November, 1949, we hereby adopt, enact and give to ourselves this Constitution".

It should be noted that the two terms "socialist and secular" had not been originally included in the preamble. These two terms have been added by the 42nd constitutional amendment in 1976. A careful examination of the words in the preamble reveals that the constitution is adopted and enacted in the name of the people. This signifies that it has not been imposed by any outsider. The emphasis on Republican and Democratic character firmly rejects the rule of inheritance or nomination. It is republic because it provided for the election of the head of the State (President). Further, the offices of all important dignitaries have the sanction of the people's consent and choice. The democratic element of the Indian Constitution underlines that at all the levels, people's choice should prevail in electing the representatives. Universal adult franchise has been the instrument for achieving these objectives.

Check Your Progress - 1

State the preamble of the Indian Constitution.

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(See para 4.3)

The Secular dimension of the preamble clarifies the policy of the State in the direction of secularism. The multi-religious character of the Indian society called for the creation of a secular State. Secularism should not be understood as anti-religion. It means giving equal status to all the religious communities and freedom of belief and worship. As such, the State does not identify itself with any of the religions. In other words, religion is considered to be a private affair of the citizens, having nothing to do with the State.

Emphasis has also been laid on socialistic goal. It is extremely difficult to exactly define "socialism" as used in the Indian Constitution and in the socialist republics like USSR and China. "Socialism" has been defined, according to the shorter Oxford Dictionary, as a "theory or policy of social organisation which advocates the ownership and control of the means of production, capital, land property etc. by the community as a whole, and their administration or distribution in the interest of all". In the light of this definition, it may be said that the State itself should undertake the responsibility of removing poverty, reducing inequalities and rendering distributive justice.

Securing justice in respect of social, economic and political aspects involves abolition of all forms of discrimination based on caste, community, race, religion or sex. It means rule of law, abolishing untouchability, equality of status and opportunities etc. Economic justice implies provision of adequate means of livelihood and minimisation of the gap between the rich and the poor. Political justice involves

extension of the principle of political equality by ensuring universal adult franchise and the freedom to form associations.

The ideal of fraternity presupposes the dignity of the individual and the unity and integrity of the nation. It is based on the assumption that all human beings are born free and equal in dignity and rights.

The constitution of India is described as the lengthiest and the bulkiest constitution in the world. This is due to the detailed and careful mention of all the powers of the States and Centre and other organs of the Governments. At present the constitution of India contains 416 articles, 9 schedules and 22 chapters.

The constitution of India contains features of both rigidity and flexibility. This is evident from the amendment procedure of the constitution. Firstly, there are certain provisions in the constitution which can be amended very easily by a simple majority in the Parliament. Secondly, there are some provisions which can be amended with special majority of two-thirds by the Parliament. This is in regard to the Fundamental Rights and Directive Principles. Under the third method, the amendment of constitution involves not only passing of the amendment bill by two-thirds majority in the parliament but also its approval by at least half of the State Legislatures in the Indian Union. Thus, it is clear that the second and third methods are very rigid and the first method flexible. Therefore Indian constitution is both flexible and rigid.

Check Your Progress - 2

Write down any two rigid as well as flexible features of Indian Constitution.

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4.3 Federal Structure

The Constitution of India, in continuation of the legacy of the Government of India Act 1935, established a Federal System of Government. Even though the term "federation" has not been used intentionally in order to maintain the unity and integrity of the nation, India has been described as a Union of States. The pluralistic character represented by the dominance of linguistic, regional and religious diversities has made a federal set up indispensable. Accordingly, the Indian federation has been devised by distributing the powers between the union and the States. This has been done through three lists, namely, Union list, State list and Concurrent list, giving the Residuary powers to the Union. Indian federation is variously defined by different scholars. For instance Wheare considered Indian Federation as "Quasi -Federal" which means half-federal.

Morris Jones considers it a "co-operative federation". It is also described as a unitary system with subsidiary federal features. These interpretations go to show that the Indian Federation does not fully subscribe to the patterns of classical federation. Some unfederal features had to be included for maintaining the unity and integrity of the country. Keeping this objective in view, the constitution provided for common All India Services.

4.4 Parliamentary System

Besides a federal structure, the Indian Constitution has provided for a Parliamentary System of Government. The Government of India Act of 1935, which was introduced by the British Government, had already laid the ground for such a system. Although responsible government had not been introduced in totality by this Act, the institution of dyarchy was partially intended to introduce responsible

government by making the executive accountable to the legislature. A Parliamentary system of government is one in which the political executive is collectively responsible to the Legislature. According to the Indian Constitution, the political executive, the Committee of the Council of Ministers headed by the Prime Minister, is collectively responsible to the House of People. It means that the Government at the national level cannot continue in power in the absence of majority support in the Lok Sabha. The same principle applies at the State level also. Keeping in tune with the principle of parliamentary system of government, the Indian constitution provides for two types of executives, namely, nominal and real executives. The President of India is the nominal executive and the Prime Minister is the real executive. The head of the state is the president and the Prime Minister is the head of the Government.

4.5 Independent Judiciary

Independent Judiciary is a pre-requisite for any Federation. The Constitution of India provides for an independent judiciary in the form of Supreme Court and High Court. It is interesting to note that the States do not have any jurisdiction over the High Courts in terms of the appointment and transfer of the judges. The High Courts are under the Union's purview. Hence the judicial system in India is an integrated one. The judiciary in India, functions as a protector of the Constitution. It also acts as an umpire between the Union and the States in case of constitutional disputes over their respective jurisdiction. Further, it is also entrusted with the powers over criminal and civil matters. Most importantly, it is the protector of the rights of the people

4.6 Single Constitution and Single Citizenship

It is of immense significance to note that there exists a single constitution in India. It is the source of authority for all the organs of Government. The Soviet and American Constitutions permit the states to have their own constitutions. The Indian Constitution, however, does not provide for separate constitutions for the States. The constitution applies both to the Union as well as States. There is no dual citizenship in India as in U.S.A. The Constitution of India provides for a single citizenship only i.e., Indian Citizenship.

4.7 Fundamental Rights and Directive Principles of the State Policy

Reflecting the liberalism of the Western Traditions, the Indian Constitution in its third part provides for seven fundamental rights which protect the liberties and freedom of the citizens. They are enforceable by a court of law. Whenever these rights are violated by the acts of the governments or laws of the legislature, the citizen has the right to move the courts and challenge such acts.

The Directive Principles of State Policy, provided for in the Part IV of the Indian Constitution, aim at establishing a Welfare State with a clear emphasis on Gandhian Socialism. Unlike the Fundamental Rights these principles are unenforceable and not judicable in a court of law even though these principles are basically more progressive and change-oriented.

4.8 Summing up

The basic features of Indian Constitution can be classified into two i.e., ideational and structural. The objectives of republicanism, secularism, democracy, socialism and socio-economic justice enshrined in the Preamble constitute the ideational or philosophical content of Indian constitution. For the realisation of these objectives, the institutional structures have been established in the form of parliamentary, federal and an independent judicial systems. These institutions have been established as instruments for achieving the end objectives of liberalism, democratic socialism, welfare state, secularism and a meaningful democratic way of life. The Directive Principles of State Policy and Fundamental Rights underline the significance of reconciling the twin objectives of liberty and equality. To sum up, in the words of Prof. Earnest Barker, who praising the political wisdom of the authors of our Constitution said, "It seems to me when I read it to state in a brief and pithy form the argument of the much of the book, and it may accordingly serve as a key note. I am all the more moved to quote it because I am proud that the people

should begin their independent life by subscribing to the principle a political tradition which we in the West call the western, but which is now something more than the Western."

4.9 Suggested Readings

M.V.Pylee	:	The Constitutional History of India
Morris Jones	:	Government and Politics of India.

4.10 Model Questions

I Answer the following questions in about 30 lines.

1. Explain the ideals enshrined in the preamble of the Indian Constitution?
2. What are the salient features of the Indian Constitution?

II Answer the following questions in about 15 lines.

1. What are the objectives of the Indian Constitution?
2. "Indian in Sovereign Socialistic Democratic Republic".
3. What were the main aspects of the "Objectives Resolutions"?
4. What new terms were added to the preamble by the 42 Constitutional amendment?

Dr. T . S. Mohana

Block - II : MAIN INSTITUTIONS

Unit - 5 : The Parliament

Contents

- 5.0 Objectives
- 5.1 Introduction
- 5.2 The Council of States (Rajya Sabha)
- 5.3 Methods of Election
- 5.4 Term of Office
- 5.5 Powers and Functions
 - 5.5.1 Legislative matters
 - 5.5.2 Executive Powers
- 5.6 Lok Sabha
- 5.7 Powers and Functions
 - 5.7.1 Legislative Functions
 - 5.7.2 Control over the Executive
 - 5.7.3 Miscellaneous
- 5.8 Privileges of Parliament
- 5.9 Presiding Functions
 - 5.9.1 Rajya Sabha
 - 5.9.2 Lok Sabha
- 5.10 Summing Up
- 5.11 Suggested Readings
- 5.12 Model Questions

5.0 Obejctives

After going through this unit you will be able to :

- * Outline the historical developments before and after the attainment of Independence leading to the establishment of the Indian Parliament.
- * Explain the structure and functions of the Indian Parliament.
- * Discuss the composition, powers and functions of the two Houses of the Indian (union) Parliament.

5.1 Introduction

With the return of Mahatma Gandhi from South Africa and the launching of Salt Satyagraha and Non-cooperation movement in the 1920s, not to speak of the inconclusiveness of the Round Table Conference, the Indian National Movement gained such momentum that the British Government had to think of establishing self-governing institutions in India. Such thinking led to the introduction of Montague-Chemsford Reforms and the passing of the Government of India Act 1935 as a major landmark of India's constitutional development, since it represents the first significant step taken by the British Government to introduce partial self-government in India. It resulted in the encouragement of the powers and jurisdiction of the Central Legislature. But it meant only a form of sharing power rather than any real transfer of power. However, it made possible for popular ministries to be formed in various provinces in 1937, though not at the Centre. It was only in the intensification of the liberation movement, owing to world war, that forced the heroes of the British Government into taking such decisive steps as the sending of the Cripps Mission and the Cabinet Mission headed by Lord Patrick Lawrance so as to bring about the transfer of power.

After attaining independence India opted for a parliamentary form of government and framed a constitution for it which provide for the establishment of the Legislatures at the Centre and in the States.

The Parliament of India, being independent of judiciary, exercises Constitutional control over the Executive. As is the case with Parliamentary system, the Indian Constitution adopted the principle of separation of powers between the Parliament and the judiciary with the executive continuing to be responsible to the parliament.

Article 79 of part V of the Indian Constitution concerns the Union Legislature which consists of the President, Rajya Sabha and Lok Sabha. It is noteworthy that though the president of India is not a member of either house of the Parliament, he is regarded as an integral part of Parliament. His position is similar to that of the king in England. King of Parliament" so also the President of India is considered "President in Parliament".

It is interesting to note that the Parliament of India is modelled on the British Parliament which is sovereign. But, unlike the British Parliament, the Indian Parliament is not sovereign since its powers and functions are clearly demarcated by the Constitution and its acts subject to judicial review. In this respect the Indian Parliament seems to be more akin to the American Congress, where its authority and jurisdiction are constitutionally restricted than to the British Parliament. Thus the Parliament of India represents a synthesis of the British principle of Parliamentary sovereignty and the American principle of judicial supremacy.

The Constitution of India providing for a Bicameral Legislature at the national level, has established two houses namely, Rajya Sabha and Lok Sabha (Council of States and House of the People)

5.2 The Council of States (Rajya Sabha)

The Upper House of the Union Parliament is called the 'Council of States'. It signifies the federal character of the Indian Union. Therefore, the Upper House is intended to give representation to the States and safeguard their interests. As per the Provisions of the Constitution, the members of Rajya Sabha shall be of two categories: elected and nominated. It consists of 250 members in all, of which 12 are nominated by the President from among the persons who have achieved distinction in the areas of art, literature, science and social service and the rest being the representatives of the States and Union Territories. While electing the members of Rajya Sabha, the population of the State is taken into account in determining the number of members to be elected as its representatives. This criterion of population being the basis results in unequal representation of the States in the Rajya Sabha. Yet a Union territory or a State, however small it is in size is entitled to elect at least one representative to Rajya Sabha. Thus while a State like Nagaland, a small Union Territory, has only one representative in Rajya Sabha, Uttar Pradesh has as many as 34 members. In this regard the Indian Upper House is unlike or distinct from the American Senate and the Council of States in Switzerland. In the case of the U.S.A. all the States are given equal representation in the Upper House, i.e., the Senate. Each State, irrespective of its size, is entitled to send two representatives to the Senate.

5.3 Methods of Election

The members of Rajya Sabha are indirectly elected. They are elected by the members of State Legislative Assemblies on the basis of proportional representation with single transferable vote system. In contrast, the members of the American Senate are elected directly by the people.

5.4 Term of Office

It is provided in the Constitution that the term of Rajya Sabha is for six years. But 1/3rd of its members retire at the end of every two years. Elections are held to fill the resulting vacancies. As a result, Rajya Sabha does not cease to exist at any time and is a continuous permanent Chamber. It cannot be dissolved

by the President of India as in the case with Lok Sabha, which can be dissolved at any time even before the expiry of its normal term of five years.

5.5 Powers and Functions

The powers and functions of the Rajya Sabha as enumerated in the Constitution can be categorised in the following manner :

5.5.1 Legislative Matters

Rajya Sabha enjoys almost equal powers with Lok Sabha except in certain respects. It has been laid down that all non-money bills can be introduced or originated in Rajya Sabha. No bill can be said to have been passed unless it is approved by Rajya Sabha also. In case of disagreement over any bill between Rajya Sabha and Lok Sabha, a joint session can be convened to resolve the deadlock. In such a situation usually the view of Lok Sabha is likely to prevail over that of Rajya Sabha. This is due to the composition and strength of the Lok Sabha which plays a dominant role in the parliament in comparison with Rajya Sabha.

However, all the money bills, after being approved by the Lok Sabha, shall be sent to Rajya Sabha. In this regard, the Rajya Sabha is required either to approve the bills or to suggest recommendations or modifications within 14 days. It is left to the discretion of the Lok Sabha either to accept the recommendation of Rajya Sabha or not.

5.5.2 Executive Powers

Significantly the Rajya Sabha does not exercise any direct control over the executive. It is empowered to pass a vote of censure or no-confidence motion against the Council of Ministers. But it can indirectly influence the executive by asking questions, tabling adjournment motions, introducing resolutions and call-attention motions. It can, through its debates, influence the public opinion by building up pressure. Hence, Rajya Sabha can play a critical role in exposing the failures and weaknesses of the Government and its policies.

It is interesting to note that there are certain areas where Rajya Sabha enjoys equal powers with Lok Sabha. They are:

- a) amendment of the Constitution
- b) election and removal of the President of India
- c) removal of the Chief Justice and Judges of the Supreme Court
- d) approval of the ordinance of emergency, promulgated by the President
- e) approval of the annual reports of the U.P.S.C., Comptroller and Auditor General, Minority Commission and Finance Commission.

Lastly, Rajya Sabha enjoys certain special powers which are not shared by the Lok Sabha. They are:

- 1) It can decide upon the shifting of any item of the State list to the Concurrent or Union list. Article 249 of the Indian Constitution lays down that any subject mentioned in the State List can be transferred to the Union or the Concurrent list if the Rajya Sabha passes a resolution to that effect by 2/3rd majority stating that it is in the national interest. Such a transfer will be in force for a maximum period of one year. But the Rajya Sabha may renew its sanction again and again. If such a resolution is passed it shall be within the powers of the Parliament to make a law on the basis of that item of the State list even during normal times.
- 2) Article 312 provides that the Rajya Sabha can create one or more, "All India Services", if it adopts a resolution with 2/3rd majority stating that it is in the national interest.
- 3) During the period of National Emergency, particularly when the Lok Sabha stands dissolved, the Rajya Sabha acts as a democratic check on the exercise of emergency powers by the President. This is possible because the Rajya Sabha is a continuous body.
- 4) Rajya Sabha alone can initiate the proposal for the removal of the Vice-President of India from his office.

Thus it may be seen that Rajya Sabha is not weak as the House of Lords in England but is as powerful as the Senate in the U.S.A. However, it is Rajya Sabha which preserves the federal character of the Indian Republic, and its distinction lies therein

5.6 Lok Sabha

The Lok Sabha or the House of People is the popular House and directly elected body of the Indian Parliament. It is the counterpart of the House of Commons of England and the House of Representatives of the U.S.A. The Lok Sabha is more powerful than the Rajya Sabha in terms of powers and status. It consists of 545 members. Provision is made for the nomination of one or two members by the President, to represent the interests of the Anglo-Indian Community, if they are found to have not been adequately represented. Moreover provisions made in the Constitution for the reservation of seats for Scheduled Castes and Scheduled Tribes.

With regard to the qualifications to become a member of Lok Sabha, a candidate should

- a) be a citizen of India
- b) be not less than 25 years of age
- c) possess all other qualifications as prescribed by the law of Parliament
- d) not hold any office of profit under the Government of India or the States.
- e) not be a member of both the Houses at the same time.
- f) not be of unsound mind or suffer from any other disqualification.

The term of Lok Sabha is for five years. However, it can be dissolved earlier by the president, in case the Government does not have the support of the majority in the House.

The action of the President in dissolving the Lok Sabha cannot be challenged in any court of law. Thus, the term of Lok Sabha depends mostly on the political support that the government has in the House. The 42nd Constitutional Amendment extended the term of Lok Sabha to six years in 1976. But the subsequent 43rd Amendment brought it down to five years. However, it is provided in the Constitution that the term of Lok Sabha can be extended during the period of national emergency, if a bill is passed to that effect by it. It will be in force for a period of one year.

5.7 Powers and Functions

It is laid down in the Constitution that the Lok Sabha should meet at least twice in a year without a gap of seven months intervening in between the two sessions. To preside over the session of Lok Sabha, the office of Speaker is provided. In his absence the Deputy Speaker discharges the same functions. The following are the main powers and functions of the Lok Sabha.

5.7.1 Legislative Functions

Being essentially a legislative body, the Lok Sabha is empowered to legislate on all the subjects in the Union and concurrent lists. During the period of Emergency, the legislative powers of the Lok Sabha will extend to the subjects of the State list also. Bills of all types - money and non-money, can be introduced in the Lok Sabha. The unique feature of Lok Sabha is its control over the finances. With regard to the money bills the Lok Sabha has the exclusive right to initiate them.

5.7.2 Control over the Executive

The most powerful weapon of the Lok Sabha is its control over the political executive. In keeping with the principle of Parliamentary system, the Constitution of India laid down that the Council of Ministers headed by the Prime Minister is collectively responsible to the Lok Sabha. It means that the Government cannot continue in power if there is no majority support for it in the Lok Sabha. The members of the Lok Sabha can pass a vote of censure which amounts to the loss of confidence in the Government. In such a

situation the Government will have no other alternative than to resign from Office. Further, the Lok Sabha can also exercise control over the executive through adjournment motions, call attention motions, questions and supplementary questions.

5.7.3 Miscellaneous

In addition to the functions mentioned above, the Lok Sabha discharges other functions like participation in the election and removal of the President, election of the Speaker and Deputy Speaker, removal of the Chief Justice, Judges of Supreme Court and High Courts. Further, the Lok Sabha along with the Rajya Sabha has a say in the Constitutional amendments and the approval of the promulgation of Emergency. It can also set up Martial Law Courts in times of Emergency to try the offences of the civilians. Like Rajya Sabha, Lok Sabha is also empowered to discuss and approve the reports of autonomous bodies and Commission, Language Commission, Minorities Commission and Scheduled Castes and Scheduled Tribes Commission.

5.8 Privileges of the Parliament

The members of Parliament are vested with certain privileges which are concerned with the effective functioning of the Houses. In parliamentary language, the term 'privilege' applies to certain rights and immunities enjoyed by each House of Parliament. The object of Parliamentary privileges is to safeguard the freedom, authority and dignity of the Parliament. The Constitution does not distinguish between the two Houses in enumerating the privileges. Articles 105 and 194 of the Indian Constitution deal with the privileges and immunities of the members of Parliament and State Legislatures. These Articles provide for the privilege of freedom of speech in Parliament and immunity to members from being proceeded against in any court of law in respect of anything said or any word given by them in the Houses.

The members of Parliament enjoy certain powers for the protection of their privileges. These are intended to

- (1) Commit persons for breach of privileges or contempt of the House.
- (2) Compel the attendance of witnesses and to send for papers and records.
- (3) Regulate its own procedure and the conduct of its business.
- (4) Prohibit the publication of its debates and proceedings; and
- (5) Exclude strangers from the House.

5.9 Presiding Functionaries

5.9.1 Rajya Sabha

The Vice-President of India is the ex-officio Chairman of the Rajya Sabha and therefore the election of its Chairman is not necessary. The Deputy Chairman is, however, elected by the members of the Rajya Sabha. He can be removed by the members through a resolution by giving an advance notice of 14 days. The Chairman is responsible for the maintaining of the dignity and decorum of the House and for the conduct of the sessions peacefully and in an orderly fashion. He presides over the sessions of Rajya Sabha.

The powers of the Speaker can be classified into four types, viz., regulatory, supervisory, administrative and miscellaneous. Under the regulatory function, the Speaker is incharge of maintaining order and decorum in the conducting of parliamentary business. He allots time to different kinds of business in the House. Interpreting the rules of procedure, putting matters to vote and announcing the result, admitting motions, resolutions etc., are the regulatory functions of the Speaker. In his capacity as Speaker, he is the head of the Parliamentary committees. Some important committees like 'Rules Committee' and 'Business Advisory Committee' work under his Chairmanship. In case of misbehaviour by any member likely to result in disruption of the proceedings of the House the Speaker can expel such a member from the House.

As for the administrative functions, the Speaker has to keep control over the 'Parliament's Secretariat'. He has to make provisions for the accommodation and other facilities to the members of the House. He is also incharge of maintaining parliamentary proceedings and records.

The miscellaneous functions of the Speaker include certifying a bill after it is passed by the House, determining whether a bill is money bill or not, presiding over the joint sessions of the Parliament, acting as the Chairman of the conference of Presiding Officers and making nominations for parliamentary delegations. It is laid down that the Speaker should be above politics and non-partisan. However, the very nature of election of the Speaker by the majority of members militates against the objectivity and non-partisan character of the Speaker. It is therefore not surprising that the Office of the Speaker of Lok Sabha is not characterised by the kind of objectivity that marks the office of the Speaker of the British House of Commons.

5.10 Summing Up

After examining the powers and functions of the Parliament of India (Rajya Sabha and Lok Sabha) it would be interesting to observe the functioning of the parliament. This is particularly due to the dichotomy between theory and practice. It is evident that the Parliament is not playing as important and crucial a role as is expected of it. This is so because of the rise of simple party dominance. Except for a brief period of three years from 1977-80 the Congress Party has been having substantial majority support in Lok Sabha. Accordingly, the party discipline imposed on the members would make them subservient to the executive. Hence we notice the trend of the decline of Parliament and the rise of the Executive.

Unlike the nineteenth century Parliament of England which used to play a classical and important role through its discussions and debates on the issues of public importance, the present functioning of the Parliament is characterised by a marked decline in its standards. The Indian Parliament too manifests the same tendency. Instead of playing the role of effective and assertive Parliament, it has become subservient to the executive. Such a trend has arisen because of delegated legislation, poor quality of legislators and party system.

5.11 Suggested Readings

J.C. Johari : Indian Government and Politics

5.12 Model Questions

I Answer the following questions in about 30 lines

1. Describe the Composition, Powers and functions of the Rajya Sabha
2. Describe the Composition, powers and functions of the Lok Sabha
3. Examine the relationship between the Rajya Sabha and the Lok Sabha

II Answer the following questions in about 15 lines

1. Briefly describe the powers and functions of the Chairman of the Rajya Sabha.
2. Discuss the role of the Speaker of the Lok Sabha
3. Describe the procedure for the removal of the Speaker of the Lok Sabha
4. In what respects does the Indian Parliament differ from the British Parliament?

Dr.T.S.Mohana

Unit - 6 : Parliamentary procedures

Contents

- 6.0 Objectives
- 6.1 Introduction
- 6.2 Summoning the parliament
 - 6.2.1 Adjournment of the House
 - 6.2.2 Adjournment Sine Die
 - 6.2.3 Prorogation
 - 6.2.4 Dissolution of the Lok Sabha
- 6.3 Arrangement of Business
- 6.4 Introduction of a Bill
- 6.5 Stages in the enactment of a Bill
- 6.6 The stage of reporting
- 6.7 Final Stage
- 6.8 Finance Bills
- 6.9 Vote on Account
- 6.10 Motions
 - 6.11 Adjournment Motion
 - 6.12 Call attention Motion
 - 6.13 Short duration or half-an-hour discussion
 - 6.14 No Confidence Motion
 - 6.15 Cut Motion
- 6.16 Committee System
 - 6.16.1 Select committee
 - 6.16.2 Privileges Committee
 - 6.16.3 Public Accounts Committee
 - 6.16.4 Estimates Committee
 - 6.16.5 Committee on Government Assurances
 - 6.16.6 Rules Committee
 - 6.16.7 Business Advisory Committee
- 6.17 The Whips
- 6.18 Summing Up
- 6.19 Suggested Readings
- 6.20 Model Questions

6.0 Objectives

After going through this Unit you will be able to :

- * Explain the procedures followed in the proceedings of the Parliament .

6.1 Introduction

The Constitution of India has created the Parliament to serve as the supreme authority to which the Executive is responsible. Though the Parliament has no executive powers it can scrutinise every act of the Government and even remove the council of Ministers from Office by passing a vote of no-confidence.

The Indian Constitution has conferred upon the Parliament the power to regulate its own business. But the procedure with regard to certain matters like the voting of demands or the passing of bills has to some extent

been enunciated in the Constitution itself. The major function of the Parliament is to enact laws on all matters pertaining to the Union Government. Another of its functions is to debate public issues and to draw the attention of the Government as well the public to matters of national importance. Since the Parliament on account of its being given a wide range of functions by the Constitution has to enact a multitude of laws within the short time at its disposal the Parliament has adopted certain procedures in order to perform its role or to carry out its mandate effectively and purposefully.

6.2 Summoning the Parliament

The right to summon the Parliament is vested in the President of India by the Constitution. He can summon the Parliament at any time, but the Constitution requires that not more than six months should elapse between the last day of the last session and the first day of the next.

6.2.1 Adjournment of the House

The Presiding Officer of the House i.e. the Rajya Sabha or the Lok Sabha has the power to adjourn the daily sittings of the House at any time and for any purpose and to reconvene the House.

6.2.2 Adjournment Sine Die

Adjournment Sine Die means the ending of the meeting of the legislature without naming any date or day for it to reassemble. The Presiding Officer is given the power to adjourn the meeting of the House sine die on the basis of a motion moved by the Government on account of any specific reason, political or otherwise, or to do so on his own accord if he thinks that the proceedings of the House cannot be carried on with due regard to Parliamentary decorum on account of the behaviour of the legislators.

6.2.3 Prorogation

The termination of a session of the legislature is called 'Prorogation'. The President has the right to prorogue the sessions of the Parliament. Once the President prorogues the sessions of Parliament he alone can summon the Parliament again.

6.2.4 Dissolution of the Lok Sabha

The President is empowered to dissolve the Lok Sabha on the advice of the Prime Minister before its term is over and order fresh elections. The question concerning the circumstances in which the President is entitled to dissolve the House is a matter not of procedure but of Constitutional convention and political conditions. The Rajya Sabha cannot be dissolved, but one-third of its members retire by rotation every second year and a fresh election takes place to fill the vacancies.

6.3 Arrangement of Business

The main business of the Parliament consists of legislation i.e., the passing of laws and the sanctioning through the enactment of law, the expenditure of the government. This apart, there are several other important matters which may come up before the Parliament for its consideration. One of the most important of them is the consideration of the questions raised by its members regarding matters of public importance.

The Parliamentary procedure in India may be discussed under the following heads :

1. Question hour
2. Introduction of a Bill
3. Stages in the enactment of a Bill

4. Financial bills
5. Motions and
6. Committee system

Question Hour : The first hour of each sitting is devoted to the eliciting of information from the Government on matters of public importance. This procedure is called the 'Question Hour'. The purpose for which the questions are put is to seek information and draw the attention of the House to the grievances of the people. Usually the questions are sent in advance so that the concerned Ministers can collect the relevant information from their officials and be ready to answer them. Members may raise supplementary questions on the main question and the Ministers should be prepared to answer them.

Questions are of two types : 1) Starred and Unstarred questions. A starred question is one to which a member wants an oral answer; and he has to put a star mark on the question. An Unstarred question is one which requires written answer. The Presiding Officer is authorised by the rules to treat a question as starred or unstarred. Generally, questions asked for eliciting information which is of statistical nature concerning matters of local or limited interest are treated as unstarred questions.

The Question Hour in the proceedings of the house is considered to be a very effective weapon in the hands of the members to pull up the Ministers for their lapses, delays, etc. The right to put questions to Ministers for the purpose of eliciting information regarding matters under their administrative control is one of the potent weapons in the hands of the Parliament to make the executive answerable and accountable to the representatives of the people.

6.4 Introduction of a Bill

After the Question Hour, the House commences its regular business by taking up for discussion the statements of Ministers on policy matters and the placing of papers and documents in the House, etc. Articles 107 to 122 of the Indian Constitution deal with the legislative procedure for the passing of bills in the Parliament. Bills are broadly classified as; (a) Official bills and (b) Private Member Bills. Official bills are those that are introduced by the concerned Ministers, the drafts of which have been approved by the Cabinet. Private Member bills are those sponsored and moved by any member of the House.

Normally, Private Member bills do not have the chance of being approved by the House unless they are supported by the Treasury benches. However a bill which is of far reaching consequences requiring a careful consideration of all its aspects is generally allowed to be introduced by a minister or member of the House. For instance, the 24th Constitutional Amendment bill which sought to uphold the supremacy of the Parliament to amend even the Fundamental Rights was introduced by Nath Pai, an Opposition member, and came to be known as 'Nath Pai Bill'. Though the Nath Pai Bill was not adopted, its main purpose was served by the 24th Amendment of the Constitution which sought to establish the supremacy of the Parliament and it received the support of the party in power.

Again, bills are classified as (a) Ordinary Bills and (b) Financial Bills. Ordinary bills can be first introduced in either of the Houses. Unless the bill is passed by both the Houses it cannot be sent for the assent of the President. If there is any deadlock between the two Houses over any bill, the President will summon a joint session of both Houses in order to resolve the deadlock.

But Financial Bills should be first introduced only in the Lok Sabha. The Rajya Sabha has no power to reject a Financial Bill. On the other hand, the Upper House is required to return a Financial Bill to the Lower House within fourteen days with or without any amendment. The Lok Sabha may or may not adopt the amendments proposed by the Rajya Sabha to it. The same Bill will not be sent to the Rajya Sabha again but to the President for his assent.

Constitutionally speaking, when a bill is sent to the President for his assent he may either give his consent or refuse it or delay his consent or return the bill to the Parliament along with his suggestions for its

reconsideration which the Parliament may or may not adopt. Again if the same bill is approved by the Parliament by passing the recommendations of the President, the President has no option but to give his assent to it. Normally, such a situation does not arise because the Cabinet assumes full responsibility for it, the President being a titular executive.

6.5 Stages in the Enactment of a Bill

The rules which govern the business of the Parliament provide an identical procedure for both houses. Every bill requires three readings and has to pass through five stages in each House. The Five stages are; a) the first reading, b) the second reading, c) the select Committee stage, d) the report stage, e) the third reading and f) the final approval.

When a bill is introduced in the House, this stage is called 'the first reading'. What is done at this stage is to introduce the bill in the Parliament and publish it in the Gazette of India. An ordinary bill can be introduced by any member by giving one month's notice. But the sanction of the President is needed in the case of Bills which aim at the redistributing or the altering of the areas or territorial boundaries of the States or relate to the change of the official language.

Before the introduction of a bill the member should seek the leave of the House. First, the title of the bill is read out and then a vote is taken. If the House accepts it, the bill will be taken up for discussion.

At the second stage the mover of the bill can opt for one of the two alternatives; 1) he may ask the House to consider the bill at once; 2) he may ask for the circulation of the bill for eliciting public opinion about the desirability of the bill.

After this second stage is over, the bill enters the third stage or the Committee Stage. A Bill is usually referred to a Select Committee which includes among others the members incharge of the bill and the Law Minister as an ex-officio member.

At the Committee Stage the bill is thoroughly discussed, clause by clause. The pros and cons of the proposed legislation are critically examined. The Select Committee can make any changes in the bill, if it finds it necessary to do so.

Sometimes the bills are referred to a Joint Select committee. The formation of Joint Select Committees on legislative measures or other items of business is one way of saving time for resolving the anticipated difference between the two Houses of the Parliament. This can also be achieved without going through the procedure of forming Joint Select Committees by the two Houses themselves if they discuss the measures and send them back and forth to each other. But such a procedure generally takes a long time and that is why to save time Joint Select Committees are formed to consider all such measures.

Most of the bills of complicated technical or controversial nature are referred to Joint Select Committees. When a bill is referred to such a committee, the mover of such a proposal himself suggests the names of the members whom he would like to be on that Committee. Members' consent is sought before they are nominated to the Committee. If a bill has to be referred to a Joint Select Committee, the other House is requested to associate its members with it. The membership of a Joint Select Committee may vary between 0 and 45 and the ratio of the members drawn from the Lok Sabha and the Rajya Sabha should be in the ratio of 2 : 1.

6.6 The Stage of reporting

The Committee stage is followed by the stage of reporting. Members of the Select Committee are free to express their opinions on the report. Each member can write a separate report if he so desires. There is usually a majority report and a minority report since unanimity of opinion is rarely found. It is the duty of the Secretary of the House to publish the report of the Committee along with its minutes. When the report

is presented to the House, the Member incharge of the bill can move the bill as reported by the Select Committee for the consideration of the House with or without the recommendations of the Select Committee. Then the discussion of the Bill will be taken up clause by clause. Members can move any amendments to it which they want. It is upto the Speaker to allow or disallow the amendments. Voting may take place on one clause or on all clauses at a time after the discussion.

6.7 Final Stage

The final stage is known as the 'Third Reading of the Bill'. Arguments for and against the Bill taken as a whole are made. Only oral amendments are allowed at this stage. If a majority of the members present, vote on passing the Bill, it is considered to have been passed by the house. After it is passed by the House the bill has to be authenticated by the Speaker in the case of Lok Sabha or the Chairman in the case of the Rajya Sabha, as the case may be. When the bill is thus passes by one House, it is sent to the other House. After its adoption by the other House also, the bill is sent to the President for his assent.

6.8 Finance Bills

Finance Bills, including the budget, are introduced in the Lok Sabha by the Finance Minister. After the general discussion is over the concerned Ministers put forward the demands of their respective ministries for the grant of money. The Lok Sabha discusses the Budget proposals of each Ministry and after they are approved by it they will be sent to the Rajya Sabha.

After the Demands for Grants are passed by the House an Appropriation Bill is introduced. The Appropriation Bill authorises the withdrawal of the total amount of the budget from the Consolidated Fund of India and specifies the amount granted under each grant.

6.9 Vote on Account

The Parliament can approve the fiscal policies of the executive when the 'Vote on Account' is brought before the two Houses. As per convention the 'Vote on Account' is a device intended to help the Government with the grant of funds before the budget discussions are completed. It was introduced in India in 1950. The Passing of the 'Vote on account' authorises the Government to draw funds for a period of few months and enables the Parliament to continue the examination of the Budget. The 'Vote on Account' is generally not debated, since its object is to enable the Government to carry on till the debate on the Budget is completed. 'Voting on Account' is always treated as a formality just like a motion for leave to introduce a Bill.

6.10 Motions

Any matter on which the decision or opinion of the House is sought must be brought before the House by means of motion. Rules or procedures provide for the period of notice needed for any particular kind of motion. A motion may be moved by any member but it has to be seconded by another member. The following are some of the important motions usually moved by the Members of the House. 1) Adjournment Motion, 2) Calling Attention Motion and 3) No Confidence Motion.

6.11 Adjournment Motin

The purpose of an adjournment motion is to give priority to the discussion of an issue on a matter of public importance which has arisen in the immediate past over the programme of business arranged by the

Government. The Adjournment Motion is thus used to discuss an urgent matter of public importance. As the Motion has the effect of upsetting the programme of the House it is subject to some restrictions like those imposed by the rule that an Adjournment Motion must relate to a specific matter which requires urgent consideration.

6.12 Call attention motion

A member may, with the previous permission of the Speaker, call the attention of a Minister to any urgent matter of public importance and the Minister may make a brief statement or ask for time to make a statement at a later hour or date. The proposed matter must be raised after the Question Hour and before the business of the House is taken up.

6.13 Short duration or half-an-hour discussion

Short duration discussion is a unique feature of the procedure in the Indian Parliament. Members may give notice for a half-an-hour discussion on a matter of sufficient public importance, which has been the subject of a recent question, oral or written, and the answer to which needs the elucidation of a matter of fact. Short duration or half-an-hour discussion is held without a formal motion being moved for it. Every discussion resembles an enlarged 'Supplementary Question and Answer'. To introduce the discussion, the members sometimes quote from the statements made by the Ministers and from proceeding or from the information supplied in an answer to the original question. Half-an-hour discussions are normally held on every Monday, Wednesday and Friday during every session except the Budget session.

There is a provision for half-an-hour discussions in the House in the case of inconclusive or unsatisfactory answers if the matter involved is of sufficient public importance. If the notice is admitted by the Speaker, a date is fixed for the discussion which is limited to half-an-hour. The device provides the Parliament with a potent weapon of scrutiny over matters of administration. But by its very nature, half-an-hour discussion gives an opportunity to the administration also to elucidate and explain its case in greater detail than is possible otherwise. The number of half-an-hour discussions that a member could raise has been limited to two in a session. This has been done to provide opportunities to as many members to avail themselves of it as possible.

6.14 No Confidence Motion

A 'No-Confidence Motion' is an expression of the House of showing its lack of confidence in the Ministry or in the Speaker or the Deputy Speaker. Although a No-Confidence Motion is likely to be defeated because the Cabinet commands majority support, it gives the Opposition an opportunity to criticise the Government, its policies and their implementation and highlight the lapses and failures of the Government.

6.15 Cut Motion

'Cut Motion' is a means by which the Opposition seeks to express its censure of the government by way of suggesting a token cut in the demand for grant of a Ministry. The amount of reduction suggested often is one rupee in order to initiate discussion of the policy underlying a grant. This is a method adopted by the Opposition in order to raise a debate and censure the Ministry. This can be done through a No-Confidence Motion also. But in order to introduce a No-Confidence Motion the support of a prescribed number of members is necessary which is not always possible for the numerically small and divided Opposition parties. Hence the use of Cut Motion.

A Closure Motion is moved by a Member to stop further discussion on any issue in order that voting may be taken on that issue immediately. The purpose of this motion is to cut short discussion in order to bring about a decision on the issue under discussion within the prescribed time-limit.

'Guillotine' is a method by which an item is put to vote without any further debate on it. This generally applied in the case of budget proceedings. If the rules provide that a demand shall not be debated for more than two days and if the debate in it is not finished within the stipulated period the demand would be guillotined on the second day of the debate on it.

6.16 Committee System

Both Houses of the Parliament have a number of Committees. The Lok Sabha has more than a dozen committees such as the 'Public Accounts Committee', 'Committee on Estimates', 'Committee on Public Undertakings', 'Committee on Government Assurances', 'Privileges Committee', 'Business Advisory Committee', 'Rules Committee', 'Select Committee on Petitions', 'Committee on the absence of Members from the sittings of the House', and the 'Committee of the Whole House'.

There are various matters for which the House is not a suitable forum for discussion or action. For example, if an inquiry is to be held, it must be made by a small committee rather than by a House consisting of hundreds of members. Again, there are several technical matters in which not every member will have interest or knowledge. Such matters are often referred to Committees specially constituted for their consideration. The Committees take evidence, if found necessary, and investigate or deliberate upon the matter referred to them and make a report containing their conclusions and findings. No Committee may, however, bind the House by its report. It is for the House to decide whether or not to take action on the report of a Committee.

6.16.1 Select Committee

The Members of the Select Committee are appointed by the House when a motion is made to refer the Bill to a Select Committee. The Chairman of the Select Committee is appointed by the Speaker. A Select Committee may appoint a Sub-Committee to examine some special points. The quorum of the Select Committee is one third of its members.

6.16.2 Privileges Committee

The 'Committee on Privileges' examines any breach of the privileges of the House or of its members by any person or organisation. When a breach of the Privileges of the House or members is referred to it, the Committee will examine and enquire into the matter or charges and recommend appropriate action. For instance, in 1978 the Privileges Committee recommended the expulsion of Mrs. Gandhi from the Lok Sabha for breach of the Privileges of the House and through a resolution, the Lok Sabha expelled her for the rest of the term of the House.

6.16.3 Public Accounts Committee

The Public Accounts Committee (P.A.C) examines the accounts of the expenditure incurred by the Ministers and point out the wastage or financial lapses if any. Its examination extends beyond that of scrutinizing the expenditure, to the consideration of its wisdom, faithfulness and economy. The Committee arrives at its own conclusions and reports them to the Parliament for action.

The P.A.C. works in association with the Comptroller and Auditor-General of India. The Chairman of the P.A.C. is appointed by the Speaker and is chosen from the opposition ranks and is usually the leader of the Opposition.

6.16.4 Estimates Committee

The Function of the Estimates Committee is to examine such of the estimates as may seem fit to the Committee and to suggest such economies as are consistent with the policy underlying the estimates. The Estimates Committee is composed of 30 members elected on the basis of proportional representation. The

Chairman of the Committee is nominated by the presiding officer and is usually selected from the ranks of the Treasury Benches.

The recommendations of the Estimates Committee are advisory in character and have no bearing upon the voting of the demands in the House.

6.16.5 Committee on Government Assurances

The Function of this Committee is to scrutinize the assurances, promises and undertakings given by the Ministers from time to time in respect of certain matters raised in the House. It considers whether the said assurances have been implemented or not. The very existence of this Committee is itself a check on the Ministers.

6.16.6 Rules Committee

It is the function of the Rules Committee to examine the matters of procedure for the conduct of the business of the House. It has the power to recommend amendments to the existing rules of Procedure and conduct of the business of the House. The Speaker is the ex-officio Chairman of the Rules Committee.

6.16.7 Business Advisory Committee

The Business Advisory Committee prepares the time-table of the House. The Speaker, the leader of the House (usually the Prime Minister) and the Minister for Parliamentary Affairs are among its members. It prepares the agenda of items to be taken up by the House.

6.17 The Whips

Though the role of the whips does not technically come under the Parliamentary procedure, it is of importance to the conduct of the proceedings of the House. Each political party appoints a party Whip or the Chief Whip in the case of the ruling party, whose duty is to mobilise the members of the party in order that they may take part in the deliberations of the house and be present particularly at the time of voting. This is necessary because often the business of the House is postponed for want of quorum. It is the duty of the Whips to see that the members of their respective parties are present in the House, particularly during certain crucial proceedings such as the debate on a Confidence Motion.

6.18 Summing Up

Despite the fact that in the Parliamentary form of government the Parliament is reduced to playing a second fiddle to the Cabinet, thanks to the party discipline, the parliament through its elaborate procedures and conventions can still play a vital role in serving as a national platform for the articulation of public opinion and for the ventilation of public grievances.

6.19 Suggested Readings

M.C.Setalvad : The Indian Constitution

6.20 Model questions

I Answer the following questions in about 30 lines

1. Describe the procedure for the introduction of bills
2. Describe the stages in the enactment of a bill
3. Describe the role of committees in the enactment of a bill

II Answer the following question in about 15 lines

1. What is the stage of reporting?
2. Give an account of short duration or half-an-hour discussion
3. Write briefly on the role of Public Accounts Committee
4. Examine the role of Whips in the Parliaments.

Dr. T.S. Mohana

BRAOU

Unit - 7 : Changing Role Of Indian Parliament

Contents

- 7.0 Objectives
- 7.1 Introduction
- 7.2 Parliament - The Nehru Era
- 7.3 The Assertion of Parliament : Nehru Era
 - 7.3.1 Parliament & SRC
 - 7.3.2 Berubari Case
 - 7.3.3 Proclamation of Emergency - 1962
 - 7.3.4 The Voice of America Deal
- 7.4 The Indira Era
- 7.5 The Fourth Lok Sabha
- 7.6 Parliament's Relegated Role - 1971
- 7.7 Decline of Parliament - 1975
- 7.8 Issues where Parliament Asserted Itself
 - 7.8.1 Parliament & Telangana
- 7.9 Decline of Parliament as an effective instrument of Legislation
 - 7.9.1 The Congress Party Domination
 - 7.9.2 Rigidity of Party Discipline
 - 7.9.3 Delegated Legislation
 - 7.9.4 Vastness of Govt. Business
- 7.10 Summing up
- 7.11 Suggested Readings
- 7.12 Model Questions

7.0 Objectives

After going through this unit, you will be able to :

- * Explain the Role of Parliament in the Parliamentary system of Government.
- * Sketch its glorious period during the Nehru Era
- * Mark its decline during the Indira Era
- * Identify issues when Parliament Asserted itself
- * List reasons for decline of importance of Parliament in the latter half of the 70's

7.1 Introduction

"In the context of a Parliamentary system of Government the functions of the Parliament in India were envisaged to be a legislature body to make laws for the country to legitimize the rules and regulations issued by the government, to serve as a check on the executive-attempting at all times to scrutinize its actions and guard against its transgression against the citizens, simply to act as a body of ombudsman looking into and seeking to remedy the grievances of citizens against all acts of omission and commission of the bureaucracy and more important than all of these, to serve as a reservoir of political leadership. In short, parliament was looked upon as the mirror of people's mind, and the guardian of their liberties". Over the last thirty years, however, the role of the Parliament has changed considerably. Today it is not the same as it was in the earlier stages of its development."

We find, in fact, that Parliaments have been steadily losing ground all over the world. The range and scope of modern governments have enormously increased with the adoption of socio-economic responsibilities and the concept of a welfare state.

The magnitude of Government's activities in modern times has thus diminished parliament's law-making role considerably. Parliament, in many countries are not really equipped to "make laws" because of the

various technicalities and the nature of modern legislation, resulting in the increased burden of the Executive.

In some cases the rigid party system along with strict party discipline have further cut down the role of the Parliaments in the formulation and enactment of socio-economic politics. Thus one finds a steady decline of legislatures. The Indian Parliament is no exception to this process.

7.2 Parliament - The Nehru Era

The role of the first three Parliaments in India, those of 1952, 1957, 1962, was limited to fulfilling to some extent, the policy proposals coming from the executive. The opposition was numerically weak. The groups sitting on the left of the speaker (the opposition benches) were keen to promote and put forth their party's policies and programmes as a reaction to the proposals of the government.

In spite of his towering personality, total command of the national politics and enjoying overwhelming support, Nehru respected the niceties of the parliamentary system and held the Parliament in great esteem.

Nehru always took the Parliament into confidence. In times of crises, members of the Parliament looked towards Nehru for guidance and inspiration. By playing the game according to the rules, he gave dignity to the office of the speaker, and a voice to the opposition and dignity to the House. The Democratic spirit is seen when he addressed the first Parliament in 1952. "As a whole the electorate had shown intelligence and discrimination in exercising their right to vote and had functioned with remarkable discipline. Whatever doubts I might have had about adult suffrage in India have been removed completely and these elections have fully justified adult suffrage and the faith we put in our people".

The period 1952-57 saw many crucial events at home and abroad like the launchings of the First and Second Five Year Plans, States Reorganisation, growing economic imbalance, India-China conflict, India-U.S.A relations, Korean crisis, Bandung Conference, Suez crisis, the Vienna Agreement and the events in Hungary.

7.3 The Assertion of Parliament - Nehru Era

In spite of the domineering personality of Nehru, supported by overwhelming majorities of his party, the Parliament asserted its authority on all important issues. The following important issues in which the Parliament played a significant role during Nehru's era does justify the above statement.

7.3.1 Parliament and State Reorganisation Commission

One of the early occasions and perhaps the most memorable one in terms of the role played by the Parliament to assert itself arose in 1955-56 when the problem of the Reorganisation of States was taken up following the submission of its report by the States Reorganisation Commission. The marathon debate that took place on the Commission's Report in 1956 was sufficient proof to show that Parliament was not merely a "Rubber-stamp" of either the executive or the party in power. In fact, the final decision to create a bilingual Bombay State, - an altogether new proposal, stemmed from the Parliament's spontaneous initiative in the matter.

7.3.2 Berubari Case

In the Berubari Case when the government had decided to cede certain parts of the Berubari area of West Bengal to Pakistan as part of an agreement between the Prime Ministers of Pakistan and India, the Parliament intervened to negative the matter of secession. This is another example of Parliamentary initiative. The government was of the view that it could implement the agreement without Parliament coming into the picture and at any rate, it felt that nothing more than ordinary legislation was required. As the outcome of Parliamentary debates, the government was compelled to seek the advice of the judiciary and a constitutional amendment was found necessary to give effect to the Agreement

7.3.3 The Proclamation of Emergency in 1962

The triumph of the Parliament as an important factor in democratic set-up in India is seen in the discussion on the Presidential Proclamation of Emergency in 1962 when it was brought to the Parliament for approval. As many as 165 members spoke during the week-long debate, on this occasion. Never before perhaps had the Executive with such an overwhelming majority in the Parliament sought Parliamentary approval on its action in the manner it did on this occasion.

7.3.4 The Voice of America Deal

After the 1962 war with China, the Americans took initiative to provide India with a protective "Defence Umbrella". Voice of America deal was one of the conditions. An agreement was made with the U.S.A. by the Union Ministry of Information for the supply of a one megawatt transmitter costing nearly Rs. one crore. The payment was to be made in the shape of "air time" for VOA programmes of three hours of peak hour broadcasting everyday for five years. It was stipulated that India would only relay VOA broadcasts and none of them would originate on the Indian Soil. Parliament's opposition was so strong that ultimately the government had to annul the agreement in defence to Parliament's wishes.

During the Nehru era, one can therefore say that the Parliament not only played a zealous role in the formulation and implementation of government's policy, but that it also acted as a pressure group, whereby the government with its majority could not override the will of the Parliament.

Check Your Progress - 1

List any two instances where Parliament asserted itself

(see para 7.4)

7.4 The Indira Gandhi Era

The Indira Gandhi era gives us enough evidence that she deviated to a large extent from Nehru's tradition of respecting the Parliament as an important Nation-building institution. Mrs. Gandhi has all along been indifferent to Parliament. Quite often, it was known that the Prime Minister was in the Parliament House but otherwise engaged, when her presence in the Chamber was necessary. Hiern Mukherjee, a great doyen of the Parliament, describes Mrs. Gandhi's attitude to the Parliament in these words: "It appears, indeed that she preferred to talk to and do business with individuals in her office where she met their daily hordes, rather than face the cacophony in Parliament and try to soothe things down...In 1969-70, when her numerical majority was a trifle shaky, she had preferred to be more careful, but in the Fifth Lok Sabha she had no such qualms".

Quite often, in Lok Sabha, Mrs. Gandhi as Prime Minister did not choose to play her role as the leader. For instance when Lok Sabha was rocked for days, during the autumn and winter sessions in 1974 over the licenses (Tulsi Ram) case, she chose to confront the opposition through a junior member. Even at times when her presence was required in the Parliament after her foreign sojourn, Mrs. Gandhi chose to depute her juniors to explain the Parliament the results of her foreign trip.

7.5 The Fourth Lok Sabha (1967-1971)

The Fourth General Elections witnessed the decline of the Congress party at the Centre as well as in the States. Defection politics and politicking became the order of the day. A Committee was appointed to contain the growing disease of defections which acquired menacing proportions. Yet the Government shelved the committee's recommendation. No valid argument or reason, was put forward by the government for virtually disregarding so much valuable parliamentary labour. The so-called zero hour, the frequency of adjournment debates, the slow progress of Question hour and regular outbursts of uproar on the floor were products of this period.

7.6 Parliament's Relegated Role - 1971

The Mid-Term poll to the Lok Sabha in 1971 returned Mrs. Gandhi to power with a massive majority. The period saw the emergence of authoritarianism. Indira Gandhi's political authority was so firmly established that the Parliament came to be ignored. A number of Ordinances were proclaimed notwithstanding the Parliament's existence. Thus, the government by-passed the Parliament's power of law-making completely and enacted legislation through ordinance when the same purpose could have been served by bringing forward an ordinary legislation. During 1974, prior to the Autumn Session of the Parliament the President issued several ordinances impounding wages, imposing compulsory deposits for higher income groups and limiting company dividends. Such ordinances were not an outcome of extra-ordinary situation as required by the Constitution. It was an attempt to by-pass the Parliament, and also make the Parliament a mere rubber-stamp of the executive actions.

The Government, during this period, also resorted to a rushing of bills in the Parliament giving very little time to the opposition members to study the bills provisions. The Constitution (Thirty Sixth Amendment) Bill was one of many such examples. It appeared that the entire law making activity of the Parliament was controlled by the government.

7.7 Decline of the Parliament - 1975

Parliament suffered badly when it assembled on 21st July, 1975 with a number of its leading opposition members in prison. "It's emergency session was little more than a captive body." In defiance of rules and conventions and common Parliamentary tradition, the ruling party passed a self - denying motion precluding asking of questions, raising of adjournment or "calling attention" motions and even having the normal private members' bills and resolution'

Censorship made Parliamentary proceedings a mockery. The resolution seeking the approval of the House for proclamation of emergency was reported by the mass-media without the opposition's comment. Opposition's attack on the government was never revealed though heard in the Parliament. The Parliament was relegated to a position where the enormity of the situation in the country was kept out of its reach.

The ongoing era of Indira Gandhi with short spell of Janata rule during 1977-79 reveals a trend towards centralized political authority overtaking the normal legitimate functional role of the Parliament. In fact, the members of the opposition felt that Parliament should have been convened, with regard to the action taken by the government in Punjab. So also on many national issues, one finds that the Parliament was not taken into confidence.

In spite of the above trend, there were certain issues during Indira Gandhi's era when the Parliament made its presence felt and prevented the political authority to override the prerogative of the Parliament.

7.8 Issues where Parliament Asserted itself

In 1966 the government allowed the Parliament to provide a lead in finding a solution to the complicated issue of the reorganisation of the Punjab State. A Parliamentary Committee headed by the Speaker,

submitted a report on the issue. The Report was accepted by the government. Similarly in 1967, during discussions on Official Language (Amendment Bill), the debates cut across party lines and resulted in five important amendments to the Bill which were accepted by the government in the House. Again in 1966 the Indo-US foundation project was shelved, after a heated debate in the Parliament

7.8.1 Parliament - Telangana Issue

On April 8, 1969 Atal Behari Vajpayee moved a motion in Lok Sabha for the appointment of a Parliamentary Committee to make an on the spot study of Telangana situation in all its aspects. The Government did not agree for the Committee's appointment but on pressure by the members of the Parliament, the Prime Minister announced an eight-point programme for the acceleration of the development of Andhra Pradesh. However, the above examples do not offer much credence for Parliament's effectiveness.

7.9 Decline of the Parliament as an effective instrument of Legislation

We have seen how the Parliament as an effective instrument of legislation is gradually declining. The Parliament does not really exercise the powers that belong to it. Its powers, in any way have been usurped by the Executive. Consequently there is a considerable decline in the role of the Parliament and it is no longer important and effective even in areas where the Constitution has conferred authority and status on it.

We shall examine the factors that were responsible for its decline. Broadly these factors are:

- The Congress party domination,
- The rigidity of party discipline,
- Delegated legislation,
- Complexity and vastness of Government business.

7.9.1 The Congress Party Domination

Except for a brief period of thirteen months in 1969 and 1970, after the Congress party split, the party had been throughout in control of both Houses of Parliament. In the Lok Sabha, the Congress party enjoyed absolute majority, and also within the Congress Parliamentary party the leadership of the Prime Minister had been unquestioned and absolute. The Government took advantage of the absolute majority and bypassed the Opposition and pushed through the policies as decided by the party bosses. Many a time the government cared very little for their point of view. Opposition parties often felt aggrieved over the disregard the government showed towards Parliamentary procedures and powers.

On 8th December, 1974 Shri Vajpayee, announced his decision to resign from the Lok Sabha. He said he was taking this extreme step because "Parliament instead of exerting itself as the highest legislative body representing sovereignty of the Indian people, has been reduced to a mere rubber-stamp to serve the ends of majority party". He further said "no longer decisions are taken in Parliament on the basis of argument, logic and facts, issues are decided irrespective of their merit on the basis of brute majority".

Parliament has even slid from its debating role, shouts and counter-shouts and disorderly scenes have become the order of the day in both the Houses of the Parliament.

The role of the opposition in terms of legislation became almost apathetic, a symbolic protest and nothing more. Parliament did what the Executive directed it to do.

7.9.2 Rigidity of the Party Discipline

Rigidity of the party system, has been the second factor for the decline of Parliament. Political parties are a part of a political system. Mostly parties emerge to capture power and hence party politics and a struggle for power ensue. In this power game, parties devise policies and programmes and determine their aims and

objectives. They contest elections. They select proper candidates for contesting elections from different constituencies. If they win, they form the governments depending upon the majority that they achieve. This process is controlled by the party bosses. Hence an aspirant to a seat in Parliament is totally dependent upon them. The obvious reason for this dependency is the size of the constituency, the financial implications and other resources. It is not possible for an individual to mobilise support for himself without the resources and support of a political party. The result is that once a candidate is selected, he is tied down to the discipline and dictates of his party bosses.

His actions and his voting behaviour are controlled by party whip. Legislation becomes merely a formality where one does not see the pros and cons of the issue. Members perform their duties in a most uninterested manner. This leads to a situation where the Houses of Parliament become a meeting place to carry out their business.

7.9.3 Delegated Legislation

The growth of delegated legislation has been another factor for the decline of Parliament. In the present context, it is not possible for the Parliament to devote its entire time to the details of a legislative measure. It could at best lay down the policy and leave the rest to be done by the Executive by framing regulations, rules, sub-rules and bye-laws, by virtue of the authority conferred by the Constitution or delegated by the Parliament, to carry out the purpose of the policy of such legislation.

Thus the present day legislative measures contain only the broad purposes and principles and the setting-up of the authority which gets exhausted with its enforcement by framing necessary rules and regulations. This is called Delegated Legislation or Subordinate Legislation.

So much of Parliament's time is spent on other matters that it does not have sufficient time or necessary equipment or will to look into all the activities of any legislative measures. Hence, all present day legislation contains a clause empowering the government to frame the necessary regulations, rules, and bye-laws to fulfil such a legislation.

Delegated legislation in India is generally expressed as statutory rules and orders but expressions like "regulations", "notification", "bye-laws", "schemes", "directions" etc. are also employed to same extent.

After the Indian Constitution came into force, the President of India under Art. 143 referred three Central Acts for the opinion of the Supreme Court as to the constitutional validity of delegated legislation in India viz. Sec.3 of Delhi Laws Act, Sec.2 of the Ajmer-Mewar (Extension of Laws) and Section 2 of the Part C State (Laws) Act. The Supreme Court agreed that essential legislative functions could not be delegated. Kania, the then Chief Justice speaking for the Court held "If full powers to do anything and everything, which can do, are conferred on the subordinate authority, although the legislature has power to control the action of the subordinate authority by recalling such power or repealing the Acts passed by the subordinate authority, the power conferred by the instruments amounts to an abdication of enforcement of the legislature conferring such wide powers".

In *Devdas Gopalkrishna Vs State of Punjab*, the Supreme Court opined that "It is the duty of the Court to strike down without hesitation any arbitrary power conferred on the executive by the legislature." The judgment shows clearly that the Parliament should never give up its essential legislative power to an outside authority, which would amount to an abdication of its primary function. Essential legislative functions should always be discharged by the Parliament itself and the policy behind the enactment should be delegated to the Executive.

Delegated Legislation should be understood in the perspective of State's role; So long as the State existed mainly for the purpose of preserving law and order, preventing external aggression, administering justice and preventing crimes, Parliament as a legislative authority was able to provide the necessary legislation complete in all its details. But since India is a welfare State and there is a shift in its primary objectives towards the concept of welfarism, Parliament could not provide the requisite amount of legislation. It did

not possess the necessary data to produce detailed laws to fulfil, the obligations of the State. As a result, Parliament delegated its responsibilities and powers to the Executive.

7.9.4 Vastness of Government Business

Complexity of government has been another factor for the decline of Parliament. Legislation on technical topics necessitated prior consultation with experts and the varied interest groups concerned. This required a good amount of data and information for the drafting of a Bill. The private members find it difficult to acquire such technical expertise. Most of them do not have the necessary aptitude or inclination to undergo the trouble of collecting the data or consult the technical experts. This gives the government a scope to rush the bills and members do not get enough time even to express their point of view.

Check Your Progress - 2

What reasons do you suggest for the declining role of Parliament?

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7.10 Summing up

In conclusion, one can say that we have a Parliamentary system in form, but in reality the powers of the Parliament have passed into the hands of the Cabinet headed by the Prime Minister. The absence of intra-party democracy, the present member's status and stature in public life which is definitely inferior to that of the stalwarts who sat in the parliament during the Nehru era, the growing cost of electoral process, the ascendancy of the party leader, all these factors have contributed to the decline of the Parliament. It may be said that the Parliament exists more in form rather than in substance.

7.11 Suggested Readings

J.C.Johari : Indian Government and Politics.

7.12 Model Questions

I Answer the following questions in about 30 lines

1. Discuss the role of the Parliament as a Law-making body during the Nehru era?
2. Examine the functioning of the Parliament during Mrs. Gandhi era?
3. Examine the factors for the decline of the Parliament as a forum of an effective instrument of Legislation?
4. Discuss delegated Legislation as an important factor for the decline of the Parliament, in India?

II Answer the following questions in about 10 lines

1. Discuss the role played by the Parliament on the issue of reorganisation of states.
2. The role of the Parliament was relegated after the 1971 Mid-term elections. Comment.
3. The Congress Party Domination at the Centre and the State has been the most important factor for the decline of the Parliament. Comment.
4. Examine the absence of party democracy on the functionary of the parliament.

Prof. F.D.Vakil.

Unit - 8 : The President : Election, Powers & President

Contents

- 8.0 Objectives
- 8.1 Introduction
- 8.2 Election
- 8.3 Qualifications, Emoluments & Allowances
- 8.4 Impeachment
- 8.5 Powers & Duties
 - 8.5.1 Executive Powers
 - 8.5.2 Military Powers
 - 8.5.3 Legislative powers
 - 8.5.4 Financial Powers
 - 8.5.5 Judicial Powers
 - 8.5.6 Emergency Powers
- 8.6 President's Rule in the States
- 8.7 Position of the President
- 8.8 Summing Up
- 8.9 Suggested Readings
- 8.10 Model Questions

8.0 Objectives

After going through the unit you will be able to :

- * Explain the mode of appointment of the Prime Minister
- * List his functions as Chairman of Council of Ministers and
- * Sketch the role of the Prime Minister as the leader of the party

8.1 Introduction

Consistent with the norms of Parliamentary form of government the framers of the Constitution sought to establish the office of President as a titular head of the Indian Republic. Accordingly the Constitution of India provides all the executive powers to the president. But in practice, he exercises them only on the advice of the Council of Ministers headed by the Prime Minister.

8.2 Election

The President is elected by an electoral college consisting of the elected members of both the Houses of Parliament and the elected members of the Legislative Assemblies of the States. The Constitution also lays down the procedure for the Presidential election by a system of proportional representation by means of single transferable vote.

The procedure adopted for the election of the President is as in the following manner :

In case of Legislative Assembly of a State the vote value of each voter is calculated by first dividing the total population of the State by the total number of elected members in the Assembly and then the quotient obtained by the above division is divided by 1000. This figure is arrived at by the following formula:

State Population

Total number of elected members in the
Legislative Assembly.

$$\times \frac{1}{1000}$$

In the case of the two Houses of the number of votes each member of Parliament is entitled to is arrived at by dividing the total number of votes given to all elected members of the State Assemblies by the total number of the elected members of Parliament:

Total number of votes assigned
to the members of the State Assemblies

Total number of elected members of
both the Houses of Parliament

This complicated system of election was followed because it was feared that a directly elected President might try to assume real powers, bringing him into conflict with the Cabinet. It was also felt that a direct election of the President would present immense practical difficulties in a country with crores of voters. Finally, it was also maintained that the inclusion of the members of the State Legislative Assemblies in the electoral college enables the President to represent the entire nation.

8.3 Qualifications, Emoluments, and Allowances

In order to contest for the office of President a candidate has to fulfil the following conditions:

1. He should be a citizen of India
2. Should have completed 35 years of age.
3. Should not hold an office of profit under the Central or State Governments.
4. Should resign his membership of Parliament or State Assembly before he assumes his office as President if he is a member of them.
5. Before assuming his office as President, the President designate must take an oath declaring his fidelity to the Constitution, to the law and to his duties.

The President is entitled to a salary of Rs.10,00,000/- per month besides other allowances. He is also entitled to rent-free official residence. A retiring President is also provided a pension of Rs.15,000/- per annum besides an annual grant of Rs.12,00,000/- for secretarial assistance and office allowance.

The President is elected to a term of five years and he is eligible for re-election. In case he wants to resign he should address his resignation letter to the Vice-President.

8.4 Impeachment

The President can be removed from office through an impeachment motion passed by the Parliament. He can be removed only on the grounds of violation of the Constitution.

The President shall have the right to appear and to be represented before the House which investigates the allegations made against him. Either house may prefer the charge of "breach of trust, nepotism or violation of the Constitution" and the other House will investigate the matter. If as a result of the investigation, a resolution is passed by not less than 2/3rds of the members of the House which investigated the charges made against the president and it declares that the charges have been proved, then the president has to resign.

8.5 Powers and Duties

The powers given to the president by the Constitution can be classified into (1) executive, (2) military, (3) legislative (4) financial, (5) judicial and (6) emergency powers.

8.5.1 Executive Powers

The Constitution has vested all executive powers of the Union government in the president who is empowered to exercise them either directly or through officers subordinate to him (Art.53)

The President appoints the Prime Minister and on his advice the Council of Ministers, the Attorney General of India, the Comptroller and Auditor General of India, the Judges of Supreme Court and High Courts. Governors of various States, Chairman and Members of Commissions like the Union Public Service Commission, the Finance Commission, the Election Commission, besides these the President also appoints, a special officer for the Scheduled Castes and Tribes, a Commission to report on the administration of Scheduled Areas, a Commission to investigate into the conditions of Backward classes, a Commission of Official Language and a Special Officer for linguistic minorities.

Not being a real head of the executive like the American President the President of India shall not have any administrative functions to discharge nor any power of control and supervision over various departments of Government. The President is only a formal head of the administration and as such, all executive action of the Union must be announced and carry out in the name of the President.

8.5.3 Military Powers

The President is the Supreme Commander of the Defence Forces. However, he has to exercise this power as regulated by law (Art. 53 (2)). In actual practice, all decisions concerning war and peace are taken by the cabinet and the defence forces work under the direction of the Defence Minister. The President appoints the Chiefs of the Army, Navy, and Air Force.

8.5.2 Legislative Powers

The President is a part of the Union Parliament. He enjoys a wide range of legislative powers which can be classified under the following heads:

1. **Summoning, Prorogation, and dissolution :** The President has the power to summon or prorogue both the Houses of Parliament and also to dissolve the Lower House. In case of a deadlock between both the Houses, he will call for the joint session of both Houses of Parliament.
2. **The Opening Address :** The President addresses both Houses of Parliament assembled together, at the first session of each general election to the Lok Sabha and on the eve of the commencement of the budget session. The purpose of the opening address of the President in actual practice is to announce the programmes and policies of the Cabinet in Parliament.
3. **Nominating Members to the Houses :** Although both Houses of Parliament are constituted on the basis of elections, the President of India has been given the power to nominate some members to both Houses of Parliament. In Rajya Sabha he nominates 12 members who distinguish themselves in various fields of Art, Literature, Social Work, Journalism, etc. In Lok Sabha he appoints one member to give representation to Anglo-Indian community in case a member belonging to the above community was not elected to Parliament.
4. **Assent to Legislation :** A bill passed by Parliament cannot become law unless the president gives his assent to that Bill. When a Bill is presented to the President after it is approved by both Houses of Parliament, the president may declare his assent to the Bill or he may withhold his assent or he may ask the Parliament to reconsider it with suitable changes suggested by him. This he may do so only in case of Bills other than money bills. In case of money bills it is obligatory on his part to declare his assent to it. Normally, the president does not ask the Parliament to reconsider any Bill because of the fact that it has the backing of the Cabinet which is responsible to the House of People.

The President as a matter of fact does not enjoy any veto power - that is to refuse to give his assent to any bill passed by Parliament because in actual practice the Cabinet takes full political and administrative responsibility.

The Ordinance Making Power : The president is empowered to proclaim ordinances at a time when it is not possible to have Parliamentary enactment on the subject immediately. The President may issue ordinances on any subject on which the Parliament is competent to legislate upon..

However, the ordinance promulgated by the President must be laid before both Houses of Parliament immediately after it reassembles. If Parliament disapproves then the ordinance lapses. If it is not disapproved the ordinance ceases to operate at the end of six weeks from the re-assembling of Parliament. The maximum duration of an ordinance is six months as the maximum period of gap between two sessions of Parliament is six months. Normally the question of Parliament disapproving a Presidential ordinance does not arise because the Cabinet enjoys majority support in Parliament.

8.5.4 Financial Powers

The President has also been given by the Constitution certain financial powers of far reaching importance.

- a. No money bill, particularly a bill imposing any tax or duty in which the states are interested because of their share of it being assigned to them, can be introduced in the Lok Sabha without his prior recommendation.
- b. The Contingency fund of India is at his disposal. Any unforeseen expenditure can be met out of this fund by the President in anticipation of the Parliament's approval.
- c. The President shall cause to be laid before the Parliament the budget for its approval.
- d. The President can also appoint a Finance Commission to recommend the manner in which the distribution of the proceeds of certain taxes have to be made between the Union and the States.

Finally the president can also determine the States share of income tax and the annual grants-in-aid to certain eastern states.

8.5.5 Judicial Powers

The president has the power to grant pardons and reprieves, remission or commutation of a punishment of convicted persons. The president's pardon could be enough for any death punishment. Besides this, he can order general amnesty on important occasions.

8.5.6 Emergency Powers

Apart from the normal powers enjoyed by the President like any other head of the State, our Constitution vests in him certain extra-ordinary powers known as 'Emergency Powers'. The President has three kinds of emergency powers under Art. 352, 356, and 360. Firstly, under Art. 352 the President is given the power to proclaim a national emergency on the ground of threat to the security of India due to external aggression or internal disturbance. The purpose of this proclamation is to maintain the security of India. A national emergency can be declared by the President if he is satisfied that a threat to our security exists or even if he suspects that the security of India is likely to be endangered. On the advice of the Council of Ministers the President proclaims a national emergency. The 38th Amendment makes it quite clear that the proclamation and revocation of national emergency solely rests on the satisfaction of President and in this connection the advice given by the Council of Ministers cannot be challenged in any court of law.

However, the 44th Amendment changes the ground for proclaiming internal emergency from internal disturbance to 'armed rebellion'. Now the President can declare emergency only after receiving a written recommendation from the Cabinet and the proclamation must be approved by the Parliament within 30 days from the date of proclamation. However, the revocation of emergency is left solely in the hands of the President.

The following are the consequences of the declaration of a national emergency :

1. During the state of emergency the executive power of the Union government extends to the extent of giving directions to any State on any matter.
2. The President can suspend the fundamental rights of the citizens. According to Art. 359 the President may suspend all the freedoms of the people except that of the right to life.
3. For all practical purposes our federal system can be converted into unitary without amending the Constitution.

So far national emergency has been proclaimed three times - in October 1962 consequent to the Chinese attack, in 1971 during the Bangladesh war and in 1975 an internal emergency was proclaimed by the President on the ground of internal disturbances.

8.6 President's rule in the States.

If the President is satisfied on the receipt of the report from the Governor that the Government of a State cannot be carried on according to the provisions of the Constitution, he may by a proclamation suspend the State government and take over the administration of that state. The object of this proclamation is to ensure smooth and stable administration under the supervision of the Union Government in a State where the Constitutional machinery has broken down on account of political instability or violent threats to law and order. By means of this proclamation, the President may assume to himself any of the executive powers of the State. Besides this, the Union Parliament will assume the responsibility of enacting laws for that state.

The proclamation under the Art.356 will have the following consequences :

1. The State comes under the rule of the President. He will assume all functions and the powers of that State Government.
2. The State Legislative Assembly will be either suspended or dissolved. If it is dissolved elections to the State Assembly have to be conducted within one year as the Constitution stipulates that the President's (emergency) in any state shall not be extended beyond one year. That was the reason why in Assam elections were held in 1983 despite the presence of unfavourable conditions. On the other hand, if the Assembly is suspended, it can be convened before the stipulated time and a popular government can be installed in order to overcome constitutional difficulties. Precisely for this reason President's rule was imposed in Punjab by suspending the government and the State Assembly in the wake of Akali agitation.

Further Art.360 gives the power to the President to declare a financial emergency if he is satisfied that the financial stability or credit of India cannot be maintained except through stringent measures. Once the financial emergency is declared the President can compel a state through directions to observe economy in expenditure and financial propriety. He can reduce the salaries and allowances of all government employees including that of Judges of High Courts and the Supreme Court.

From the emergency powers conferred on the President, it is evident that the framers of the Constitution had given to the preservation of integrity and unity of the country the topmost priority. They were willing to achieve this objective even at the expense of tampering with the basic freedom of the citizens. Emergency provisions are necessary evils. Without them it would be difficult for any government to maintain law and order in abnormal conditions as we see presently the situation in Punjab. However, there is a possibility of misusing them for partisan purposes by the party in power at the Centre.

8.7 Position of the President

Right from the days of Dr. Rajendra Prasad, the first President of the Indian Republic until recently the position of the President and his role has been a matter of controversy. The framers of the constitution wanted the President to play a role of constitutional head on the analogy of the British Monarch. Dr. Ambedkar, the Chairman of the Drafting Committee of the Constituent Assembly thus declared; "The President occupies the same position as the King or Queen under the British Constitution. He represents the nation but does not rule the nation. His place in the administration is that of a ceremonial device or seal by which the nation's decisions are made known". The President is bound by the advice of the Cabinet consistent with the principles of Parliamentary democracy.

On the other hand, some have advocated the theory of an independent President who is not always bound by the advice of the Council of Ministers. For example K.M. Munshi was of the view that the President had to act as an independent person to "defend the Constitution against the inroads from whatever quarters they may come".

In fact, as early as in 1960, the first President of India Dr. Rajendra Prasad raised the question of President's functions and powers. He pointed out that there is no provision in Constitution which says explicitly that the President is bound by the advice of his Cabinet. Ultimately the controversy whether the President can act independently of the Council of Ministers was settled through the 42nd Amendment to the Constitution which emphatically says that the President under all circumstances act only on the advice of the Council of Ministers.

Check your progress-2

Can President of India Act independently of the advice of council of Ministers Quote relevant Amendment to substantiate your answers

As a matter of fact, the position of the President and the role he can play depends much on the personality of the President and the political conditions prevailing at that time, rather merely on the provisions of the Constitution. Given certain peculiar and unstable political conditions the President can certainly play his role more than a symbolic head as it happened in 1979 in the wake of the collapse of the Janata Government at the Centre. At that time the then President played a controversial role while choosing Charan Singh as Prime Minister and then dissolving the Lok Sabha on the advice of the Prime Minister who neither had the confidence of the Lower House nor ever faced it.

In spite of the Constitutional limitations and the conventions of Parliamentary democracy, we can say that there are certain circumstances in which the President is obliged to use his discretion:

1. When the Council of Ministers is torn by dissensions or when it has lost the confidence of the Lok Sabha.
2. When there is political instability or uncertainty as no party is in a position to command absolute majority in the Lok Sabha to form a stable government.

8.8 Summing Up

From the above discussion we may conclude that normally the President is bound by the advice of the Cabinet and he cannot disregard it so long the Cabinet commands absolute majority in the Lok Sabha. His position is more or less similar to the position of the queen of England. Yet, under certain peculiar circumstances not envisaged by the framers of the Constitution the President may have to use his discretion and act independently as it happened in 1979 when N. Sanjeeva Reddy was the President of the Indian Republic.

8.9 Suggested Readings

A.S. Narang : Indian Government and Politics

8.10 Model Questions

I. Answer the following questions in about 30 lines

1. Examine the powers of the President.

2. Discuss the position of the President under the Indian Political system
3. Describe the circumstances under which the President's rule can be imposed in a state.

II. Answer the Following Questions in about 15 lines

1. Describe the procedure for the election of the President of India.
2. What are the emergency powers of the President?
3. What are the financial powers of the President?

Dr.V.Krishna Rao

BRAOU

Unit - 9 : Relations between the President and the Cabinet

Contents

- 9.0 Objectives
- 9.1 Introduction
- 9.2 Can the President Function Independently ?
- 9.3 Where can the President act without Ministerial advice
- 9.4 Dissolution of the Sixth Lok Sabha - The Role of the President
- 9.5 Mixed Reaction to the President's decision
- 9.6 Relation between the President and the Council of Ministers
- 9.7 Summing Up
- 9.8 Suggested Readings
- 9.9 Model Questions

9.0 Objectives

After going through the Unit you will be able to

- * Explain the relationship between the President and the Cabinet and
- * the role of President in dissolving Sixth Lok Sabha

9.1 Introduction

The framers of our Constitution adopted a parliamentary form of government. Under this scheme the President is the fountain head of all constitutional and legal powers. Every act of the government is carried out in his name. However, in real practice it is the Council of Ministers headed by the Prime Minister which wields all the real authority.

As a matter of fact, there is no legal sanction behind the President's obligation to act according to the advice tendered by the Council of Ministers. No court is competent to invalidate any act of the President on the ground that he has not taken or acted contrary to the ministerial advice in any matter. Although it may appear to be constitutionally improper for the President to do so, the courts cannot interfere on the ground of such impropriety. The position as a way of convention has been borrowed from the British practice and adopted by our Constitution. No act of the President can be taken as an act in his individual capacity because he functions only through ministerial responsibility.

9.2 Can the President Function Independently ?

Apart from the unusual and peculiar circumstances prevailing at a time, the President of India, under normal circumstances is bound to act only on the advice of the Council of Ministers. Even in the absence of any legal sanction, the President is bound by the Cabinet's decisions because of the following reasons :

1. The expression "aid and advice" adopted in Art. 74 (1) indicates clearly that the President acts as a constitutional head only on the advice of the ministers who are responsible to the House of the People.

Even when we look into the provisions of the Constitution this position becomes very clear. Under Art. 53 (1) of our Constitution the executive power of the Union is vested in the President. But under Art. 75 there is to be a Council of Ministers headed by the Prime Minister to aid and advice the President in the exercise of his functions. The President has thus been made a ceremonial or constitutional head of the executive while the real (executive) powers are exercised by the Cabinet.

2. As the Art. 52 says that there shall be a President of India so the Art. 74 (1) says that there shall be a Council of Ministers. Therefore the Council of Ministers is as much indispensable as the President of India. Hence the President cannot function without Ministers, just as the Council of Ministers cannot do without a President if the President resigns or his office falls vacant by way of death.
3. What will happen if the President acts against the advice of his Council of Ministers ? The Cabinet will certainly resign. In 1977 when the Union Cabinet advised the then acting President B.D. Jetti, to dissolve as many as 10 State Legislatures and hold fresh elections he initially was not inclined to follow the advice of the Cabinet. Later on when the Prime Minister Morarj Desai threatened to resign, the President submitted himself to the advice of his Prime Minister.

In case the President allows his Cabinet to resign, then he will be obliged to find out another Council of Ministers which can command the confidence of the Lower House, for Art. 75 (3) requires that the Council of Ministers shall be collectively responsible to the Lok Sabha. Therefore, none but a person who can command the support of a majority in the House can form a ministry. Hence, so long a Prime Minister enjoys a solid majority in the Lok Sabha the President cannot act contrary to his advice.

4. Under Art. 356 President can suspend a State Government and impose his rule over that state. But at the Centre, there is no such provision for the dismissal of the Council of Minister and for the promulgation of the President's rule.
5. As long as the Council of Ministers enjoys a stable majority in the two Houses of the Parliament, they can secure the impeachment of a President if he wishes to use his discretion.

Check Your Progress - 1

Cite relevant articles for imposition of President's Rule ?

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(See Para 9.3)

9.3 When (Where) can the President act without Ministerial advice ?

In spite of the fact that the President of India is only a ceremonial head, discharging his constitutional responsibilities with the aid and advice of the Council of Ministers, yet there are certain situations when he can act independently of the advice of the Cabinet.

1. In the matter of selection of a Prime Minister when no party nor a combination of parties has a clear majority in the House of the People.

2. The President may refuse dissolution of the House of the People to a prime Minister who has lost the confidence of the House.
3. Article 53 obliges the president to exercise the executive power "in accordance with this constitution" and as per Art. 60 he takes the oath "to preserve, protect and defend the Constitution". Suppose the President finds that a particular advice given to him by the Cabinet to be constitutionally improper, should he accept it? If he does so, he will not be able to live up to the oath he has taken to "preserve, protect and defend the Constitution". If the President refuses to accept the advice tendered by the Cabinet he may face political opposition and harrassment from the government as it happened in the case of B.D. Jetti, the Acting President in 1977 when he refused to dissolve Ten State Assemblies on the advice of the prime Minister Morarji Desai.
4. Even more debatable is the question whether a President can dismiss a Prime Minister on the ground of Constitutional impropriety or misuse of power. This is because of the problem that the President will not be able to find another Council of Ministers in the place of the Cabinet headed by the dismissed Prime Minister.

However, in 1979 the then President Sanjeeva Reddy after accepting the resignation of Morarji Desai appointed Charan Singh as Prime Minister although the latter did not have the requisite majority support in the Lok Sabha. Not only this, the President also accepted the advice of Charan Singh and dissolved the Lower House and ordered for fresh elections. This act of the President at that time aroused a great deal of controversy with regard to the powers and functions of the President under the Constitution.

This step of the President who followed the advice of the Prime Minister in dissolving the House without giving opportunity to another leader to form the government was an unprecedented and risky decision and in case his opponents had obtained absolute majority in the House and formed the government, the President then surely would have faced impeachment. In fact the Janata Party leaders in the 1980 Lok Sabha elections repeatedly declared that they would press for the impeachment of the President Sanjeeva Reddy if their party wins majority seats in the Lok Sabha.

Fortunately the event did not take place as the Congress (I) won the majority seats in the Lok Sabha and formed the government at the Centre. By this political change, an unfortunate situation of impeaching a President has been avoided.

No trial of Strength between the President and the Prime Minister can be imagined as long as the Prime Minister enjoys the confidence of the House of the People. Only the House can dismiss a Prime Minister by way of passing a No-confidence Motion or defeating a major policy of the government. So long as any such situation does not arise a wise President does not risk his own impeachment by either dismissing the Council of Ministers which has the support of the Lower House or by disregarding the advice tendered by the Cabinet.

Check Your Progress - 2

Can a Trial of Strength be attempted between President and the Prime Minister?

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(See Para 9.3)

9.4 Dissolution of the Sixth Lok Sabha - The Role of the President

The Janata Party which obtained a massive majority in 1977 March elections and formed the first non-Congress government at the Centre under the leadership of Morarji Desai faced a political crisis in 1979 July as a result of a split in the party. The Prime Minister Morarji Desai tendered the resignation of his government on July 15, 1979. Then the President invited the leader of the opposition Y.B. Chavan to explore the possibility of forming a government. When he failed to do so, the President appointed Charan Singh as Prime Minister with the condition that he should obtain a vote of confidence from the Lok Sabha. Then Charan Singh resigned on August 20 without facing the Lok Sabha. The President, Sanjeeva Reddy, who held wide-ranging consultations ignored the claims of Janata leader Jagjeevan Ram to form the government and dissolved the Lok Sabha on the advice of the outgoing Prime Minister Charan Singh. This apart the President allowed Charan Singh to continue as Caretaker Prime Minister, pending the mid-term poll to the Lok Sabha.

9.5 Mixed Reaction to the President's decision

There was mixed reaction to the President's announcement of dissolving the Lok Sabha and ordering for fresh elections. While several people were critical of the President's action, others felt that the President's decision was justified in view of the unpredictable political conditions prevailing at that time.

The Janata Party leaders and those who were sympathising with Jagjeevan Ram felt that he should have been given a chance to prove his majority. After all Charan Singh had been given an opportunity to prove his strength. They charged that the President's action as an "act of pre-planned conspiracy" to deny Jagjeevan Ram the opportunity of becoming the Prime Minister of India. In an atmosphere of high intrigues and low moral values it was only natural that the President's controversial decision attracted strong criticism.

However, the President's decision has been hailed as bold and firm action. It cannot be said that the President acted on impulse. The decision in favour of a mid-term poll was taken by the President after a prolonged series of discussions with senior political leaders, and a few experts on the Constitutional law, including N.A. Palkhiwala. The President appeared to have been more concerned with the need for a clear verdict through an election than with the technical issue whether or not Jagjeevan Ram's claim to succession on a trial basis was justified.

9.6 Relation Between the President and the Council of Ministers

In a parliamentary form of government as it is obtained in England the Head of the Executive (Queen) is a mere titular head and the virtual executive power is wielded by the Cabinet which is responsible to the Lower House of the Parliament for political and policy decisions as well as for the performance of the government.

Being a republic, India could not install a hereditary monarch. Keeping in view of the titular position of the Head of the State, the framers of our Constitution made the election of the President an indirect one - elected by the elected members of Parliament and the elected members of the State Assemblies. All the powers and functions that are vested by the Constitution in the President are expected to be exercised on the advice of the Ministers responsible to Parliament as in England.

Although the Constitution did not specify in so many provisions, that our political system is an exact replica of the British Parliamentary system and that the President being the ceremonial head of the state will scrupulously follow the parliamentary traditions of acting only on the advice of the Prime Minister and his Cabinet, so far all the Presidents since the inauguration of our Republic did follow

the advice of the Cabinet and the Prime Minister. Apart from this the 42nd Constitutional Amendment Act sealed the issue once for all, by emphatically stipulating the President to act on the aid and advice of the Council of Ministers.

During the first half after the inauguration of our republic, the first two Presidents - Dr. Rajendra Prasad and Dr. Radhakrishnan despite being strong personalities and although they clashed with the Prime Minister Jawaharlal Nehru, maintained their dignity and decorum and functioned in accordance with the principles and conventions of parliamentary democracy.

Dr. Rajendra Prasad who first raised the public debate with regard to the position, powers and functions of the President and who asked the Parliament to reconsider the Hindu Code Bill in the light of his suggestions, ultimately followed and respected the traditions of parliamentary government following the advice of the Cabinet and leaving the burden of political and governmental responsibility to the Prime Minister and his Cabinet.

This respect for Constitution and propriety was more during the Nehru era and the office of the President did not become a target of public criticism for two important reasons. Firstly, Dr. Rajendra Prasad who held the office of the President for ten long years was a colleague of Nehru-the first Prime Minister of India. Dr. Prasad was a towering personality whose contribution to the freedom movement was no less than that of Nehru's. He could stand with the Prime Minister on equal terms. Therefore, things went on smoothly although the President the Prime Minister occasionally had certain personal differences.

9.7 Summing up

From 1967 with the beginning of the Indira Gandhi era things began to change a lot. For the first time in 1967 there was a serious contest for the election of the President between the Congress candidate Dr. Zakir Hussain and K. Subba Rao, a candidate sponsored by the Opposition Parties. Again in 1979 the election to the office of the President took a serious turn. The nominee of the Congress party which enjoyed comfortable majority in the electoral college, N. Sanjeeva Reddy was defeated by the Independent candidate V.V.Giri who was indirectly supported by Indira Gandhi. Thus in order to settle the scores of factionalism within the ruling party - the Congress - the office of the President became the bone of contention.

With the rise of Indira Gandhi particularly after 1971, the office of President, the highest office of honour in our country, lost its prestige and charm. Presidents like V.V.Giri earned the nickname of a "Glorified Rubber Stamp", while it was Fakhruddin Ali Ahmed who signed the proclamation of internal emergency in June 1975 on the advice of the Prime Minister without prior approval of the Cabinet. The next president Sanjeeva Reddy was criticised because of his role in the fall of the Janata Government in 1979 and for the controversial decision of appointing Charan Singh as Prime Minister who did not face the Lok Sabha. Mrs. Gandhi also described Sanjeeva Reddy as the "President of the Opposition parties". Thus an office which is supposed to be ceremonial, titular and formal became controversial because of factional and power politics.

9.8 Suggested Readings

1. D.C.Guptha : Indian Government and Politics.
2. A.S.Narang : Indian Government and Politics.

9.9 Model Questions

1. Answer the following questions in about 30 lines
1. Examine the relations between the President and the Council of Ministers ?

2. Under what circumstances can the President dissolve the Lok Sabha ?
3. Has the President got any choice in the selection of the Prime Minister ?

II. Answer the following questions in about 15 lines

1. Is the advice of the Cabinet on the President ?
2. What was the reaction to binding the President's decision to dissolve the Lok Sabha in 1979?
3. Do you consider the President really a rubber stamp ?

Dr.V.Krishna Rao

BRAOU

Unit-10 : Prime Minister And Cabinet

Contents

10.0	Objectives
10.1	Introduction
10.2	Appointment
10.3	Powers and Functions
10.4	Formation of the Cabinet
10.5	Chairman of the Council of Ministers
10.6	Leader of the House of the People
10.7	As Channel of Communication
10.8	Prime Minister & Foreign Policy
10.9	Leader of the Party
10.10	The President and The Prime Minister
10.11	Prime Minister Form of Government
10.12	Summing Up
10.13	Suggested Readings
10.14	Model Questions

10.0 Objectives

After going through the unit you will be able to:

- * Explain the mode of appointment of the Prime Minister
- * List his functions as Chairman of Council of Ministers and
- * Sketch the role of the Prime Minister as the leader of the party

10.1 Introduction

Though our Constitution formally vests all executive powers in the President, he has to function in reality on the aid and advice of the Council of Ministers headed by the Prime Minister.

In the Constitution there are only few references to the Prime Minister and the Council of Ministers: yet, in practice it is the office of the Prime Minister that has become the most powerful institution.

10.2 Appointment

While the British Constitution leaves the entire system of Cabinet government to convention, the framers of the Indian Constitution incorporated the essential provisions relating to the cabinet system in our written constitution itself.

Thus the constitution in Art. 74(1) lays down "There shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President in the exercise of his functions". The Prime Minister is appointed by the President. And on the advice of the Prime Minister, the President appoints the other Ministers.

With regard to the appointment of the Prime Minister, the President has no choice under normal circumstances. That is, he has to appoint as Prime Minister a leader who can command the confidence of the majority of members in the Lok Sabha. The President may have an opportunity to exercise his discretion in case no party or a combination of parties is in a position to produce a leader who can command a majority in the Lok Sabha. This situation arose in 1979. After the fall of Morarji Desai's government, there was no leader who could obtain full majority support. Then the President appointed Charan Singh as Prime Minister and asked him to prove his majority within a month.

Check Your Progress - 1

Explain how a Prime Minister is appointed?

sec para 10.2

10.3 Powers and Functions

The Prime Minister enjoys enormous powers and prestige. He is the keystone of the cabinet arch. He performs a number of functions which can be enumerated as under.

1. He can recommend to the President the names of the persons who have to be inducted into the Council of Ministers
2. He aids and advises the President in the exercise of his powers
3. He communicates to the President the decisions of the Council of Ministers relating to the administration of Union affairs and also proposals for legislation
4. He furnishes such information as the President may call for.
5. He submits for the consideration of the Council of Ministers any such matter as the President requires the Council to consider.
6. He allocates business among his colleagues and reviews from time to time whether that allocation remains still the best.
7. He may make any changes in the Council of Ministers.
8. He presides over the meetings of the Cabinet
9. He coordinates the policies of several ministers.
10. He acts as the leader of the House of the People and in that capacity makes all important policy announcements.
11. He recommends to the President the names for major appointments such as Ambassadors, Attorney General, Comptroller and Auditor-General, Governors etc.

10.4 Formation of the Cabinet

While the Prime Minister is selected by the President, the other ministers are appointed by the President on the advice of the Prime Minister. The allocation of portfolios among them is also made by him. Further, the President's power of dismissing an individual Minister is virtually exercised by the Prime Minister.

The strength of the Council of Ministers is not specified by the Constitution. It is determined by the Prime Minister keeping in view the political, regional, factional and other considerations.

The Prime Minister forms the government. He selects the team of Ministers. Although the Prime Minister is free to choose his colleagues, political, party, regional and administrative considerations decide the choice of ministers. The Prime Minister has to consider the party needs, geographical considerations, and give due representation to different communities.

The Prime Minister exercises his right to allot portfolios among the Ministers, reshuffle them, drop some of them from the Cabinet or expand the Cabinet.

Although the Prime Minister has been described as central to the formation of the Cabinet, central to its life and central to its death, his control over the cabinet depends very much on his capacity to control the members of his party. As long as the Prime Minister in his capacity as the leader of the party has control over the affairs and machinery of his party, he can exercise his discretion with absolute confidence. Otherwise, a Prime Minister has to make compromises and has to be content with the position of first among equals. In 1967, soon after the general elections to the Lok Sabha, Mrs. Gandhi while forming her cabinet had to include Morarji Desai, her arch political rival and make him the Deputy Prime Minister of India because at that time she had no absolute control over her party. In the same way, when Morarji Desai formed his government in 1977, he had to just recommend only those names to the President for appointment as Ministers as were submitted by the different components of the Janata Party.

10.5 Chairman of the council of Ministers

The Prime Minister is the Chairman of the council of Ministers. He presides over the cabinet meetings. The agenda of the Cabinet meeting is decided by him. Because of his pre-eminent position, the Prime Minister's decisions prevail over the cabinet despite differences. No proposal can come before the cabinet without the Prime Minister's prior knowledge.

The Prime Minister is responsible for all the policies of the government. He is the Head of the Government. In that capacity he represents the government in international conferences, signs treaties and holds discussions with the visiting dignitaries. All major policy announcements are made by the Prime Minister. He is the chief spokesman of the Government.

The position of the Prime Minister in the council of Ministers is supreme. It is on the recommendation of the Prime Minister that the President appoints Ministers. The Prime Minister has the right to ask any Minister at any time to resign from the cabinet. Therefore, an individual Minister holds office during the pleasure of the Prime Minister. When the Prime Minister resigns, the entire Government (Council of Ministers) is deemed to have resigned. Thus the Prime Minister is central to the Cabinet, central to its life and central to its death.

10.6 Leader of the House of the People

In his capacity as the leader of the majority party, the Prime Minister acts as the leader of the Lok Sabha. He can intervene in any debate and make policy announcements in the House. His speeches are generally heard with rapt attention.

As the leader of the House, the Prime Minister has the privilege of recommending to the President the dissolution of the Lok Sabha and holding fresh elections, so long as he commands majority in Lok Sabha, the Prime Minister can recommend a mid-term poll at any time. For example, in 1971 Mrs. Indira Gandhi recommended the dissolution of the Lok Sabha and a mid-term poll was held just one year before the expiry of the normal tenure of the House.

10.7 Channel of Communication

The Prime Minister is the channel of communication between the President and the council of Ministers. Art. 78 of the constitution says that it shall be the duty of the Prime Minister (1) to communicate to the President all decisions of the council of Ministers relating to the administration of the affairs of the union and proposals for legislation; (2) to furnish such information relating to the administration of the affairs of the union and proposals for legislation as the President may call for, and (3) if the President so requires, to submit for the consideration of the council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the cabinet."

10.8 Prime Minister and Foreign Policy

The Prime Minister whether in charge of external affairs or not, plays a dominant role in the shaping of the foreign policy and the conducting of foreign affairs. He keeps in touch with developments in all countries

through diplomats and deputed personal representatives to successive areas to assess the situation and report back to him.

10.9 Leader of the Party

Only the leader of the majority party in the Lok Sabha can stake his claim to become the Prime Minister. Soon after the elections to the Lok Sabha are over, the party that obtains majority seats in the House chooses its leader. This leader will be invited by the President to form the government. Therefore, any one who wants to become Prime Minister should in the first instance be the leader of the majority party. The choice of a person as the Prime Minister depends upon his position and influence in the party organization.

In the Congress Party, Jawaharlal Nehru and Indira Gandhi have been unrivalled leaders. Jawaharlal Nehru was the Congress Party's unanimous choice as leader of the party. In that capacity, he was the Prime Minister till his death. After the death of Lal Bahadur Shastri, there was a contest for leadership in the Congress party in 1966 between Mrs. Gandhi and Morarji Desai. Since then, the leader is being chosen unanimously. The same method of choosing the leader on the basis of consensus was adopted by the Janata Party in the choice of Morarji Desai as Prime Minister in 1977.

Check Your Progress - 2

What role does the Prime Minister play as the leader of the Party?

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See para 10.7....

Previously the party was a powerful organisation and used to control the government's policies and programmes. The party President used to wield influence and control over the party machinery. With the emergence of a powerful Prime Minister who enjoys enormous sources of patronage, the influence of the Party over the government has declined considerably. Today the Congress-I is virtually identified with Mrs. Indira Gandhi, the Prime Minister. All key posts are filled by the Prime Minister who has also been the party's President since the inception of the Congress-I. Therefore even the ministers owe their positions to the Party leader-cum-Prime Minister rather than to their individual capacity as leaders.

10.10 The President and the Prime Minister

Although the Constitution rests all executive and legal powers in the office of the President of India, in actual practice it is the Prime Minister who exercised all authority in the name of the President. The President is only a constitutional figure, a titular head. The real powers are exercised by the Prime Minister.

With the emergence of Mrs. Gandhi in Indian politics, the office of the Prime Minister has grown enormously in terms of power, prestige and popularity. During her tenure, she had seen four Presidents. All the presidential candidates were the candidates of her choice. Under the present system of the election of the President, no one can hope to be elected as President without the support of the Prime Minister. In 1969, V.V. Giri, the Independent candidate got elected as President defeating the Congress nominee Sanjeeva Reddy. This, Giri could do because he received active support from the Prime Minister, Mrs. Gandhi.

Therefore, any President whose selection and election depend on the leader of the majority party has to function amicably with the Prime Minister. When Sanjeeva Reddy criticised the government on one or two occasions, the Prime Minister Mrs. Gandhi described him as President of the opposition parties.

Since the Prime Minister shoulders all the political and administrative responsibility of the government, as long he receives the majority support from the Lok Sabha, the President has no alternative but to play a ceremonial role in Indian politics.

10.11 Prime Ministerial Form of Government

The Prime Minister is the keystone of the Cabinet system. The role of the Prime Minister has become so important that the Cabinet Form of Government today is being described by some as the Prime Ministerial form of Government.

There are several reasons for the growth of the position and powers of the Prime Minister. The Prime Minister is the main link between the President and the Council of Ministers. He is the head of the government, leader of the Lok Sabha and leader of the majority party.

10.12 Summing Up

The office of the Prime Minister has become powerful because firstly several wings of government are attached to the Prime Minister. The Cabinet Secretariat, the Prime Minister's Secretariat, the Research and Analysis Wing have added more powers to and increased the sphere of the influence of the office of the Prime Minister.

Secondly, the association of the Nehru family with the office of the Prime Minister has added lustre and prestige to it. Nehru was Prime Minister for 17 years. Later his daughter Mrs. Indira Gandhi has ruled the nation for more than fifteen years. The role of the Nehru family in the freedom movement has also raised the popularity of the Prime Minister.

The factor of charisma plays an important role in making the Prime Minister appear powerful. Radio, Television and the mass media give a wide coverage to any news pertaining to the Prime Minister. The power of patronage and control over the party along with mass contacts through communications have made the office of the Prime Minister a very powerful institution.

10.13 Suggested Readings

J.C. Johari : Indian Government and Politics.

10.14 Model Examination Questions

I Answer the following questions in about 30 lines.

1. Describe the position and powers of the Prime Minister.
2. Evaluate the position of the Prime Minister in the Indian Political System.
3. Account for the growth of the Prime Minister's ascendancy.
4. Do you agree with the view that there is a Prime Ministerial government in India today.

II Answer the following questions in about 15 lines

1. Explain the procedure for the appointment of the Prime Minister.
2. Explain the Prime Minister's problems in the formation of the Cabinet.
3. What is the role of the Prime Minister as the leader of the Lok Sabha?
4. How does the Prime Minister receive strength and support from his party?
5. Examine the relationship between the President and the Prime Minister.

Dr. V. Krishna Rao

Unit - 11 : Patterns of State Governments :Legislature

Contents

- 11.0 Objectives
- 11.1 Introduction
- 11.2 Towards Responsible Government
- 11.3 State Legislature under New Constitution
- 11.4 Composition : Legislative Assembly
- 11.5 Term of Legislative Assembly
 - 11.5.1 Qualifications of Members
 - 11.5.2 Disqualification
 - 11.5.3 Privileges of the Assembly & its Members
 - 11.5.4 Salaries and Allowance
- 11.6 Presiding officers of the Legislative Assembly
- 11.7 Powers and functions of the Legislative Assembly
 - 11.7.1 Legislative Powers
 - 11.7.2 Executive Powers
 - 11.7.3 Financial Powers
 - 11.7.4 Judicial Powers
 - 11.7.5 Other Powers
- 11.8 Legislative Council
 - 11.8.1 Composition
 - 11.8.2 Financial Powers
 - 11.8.3 Executive Powers
- 11.9 Legislatures in Union Territories
- 11.10 Powers & Functions of the Legislative Council
 - 11.10.1 Legislative Powers
 - 11.10.2 Secretarial
- 11.11 Summing Up
- 11.12 Suggested Readings
- 11.13 Model Questions.

11.0 Objectives

After going through the unit you will be able to :

- * Sketch the evolution of Legislative Assemblies and council of the States of Indian Union.
- * List powers and functions of Assemblies and
- * Highlight councils, distinguishing features of each house.

11.1 Introduction

When the British Crown assumed the direct control over the administration of India in 1858 as a sequel to the great Indian Revolt of 1857, a new era of constitutional history opened up. Three years later, the Indian Councils Act of 1861 was passed by the British Parliament providing some representation in the Legislative Council to influential Indians. The Act marked the beginnings of representative institutions in India. However, it was neither a deliberative body nor did it have any control over the executive power.

In 1892 another Act was passed by the British Parliament, liberalising to some extent the composition of the Central and Provincial legislatures and also improving their status. Though the Act provided opportunities for non-official members to criticise the government, it was not truly reflective of Indian opinion, as it gave representation to vested interests only. The Act of 1909 is regarded as a landmark in the evolution of representative government in India. Though its intention was to associate Indians in a real

and effective manner by increasing the size of the Imperial Legislative Council and Provincial Councils, it failed to provide responsive and responsible government because of the following reasons :

1. The elected members of the Council were selected on a very narrow franchise.
2. It introduced the vicious communal representation
3. Though the members were given the right to discuss the budget, put questions and supplementaries, they had no influence on the outcome of the Government's policy.

11.2 Towards Responsible Government

The Act of 1919 was intended to increase the association of Indians with every branch of administration. Towards this goal, it gave more autonomy to provinces and provided for 70% of elected representatives in Provincial Legislatures. But the character of this autonomy was vitiated by the nature of franchise which was not universal.

Though the Provincial Legislative Councils were given the power of enacting laws and deliberations, the overriding powers enjoyed by Governors restricted their role.

The 1935 Act is an important landmark in the sense that the provinces for the first time got a measure of democratic Government. The Act provided for direct election to the Legislative Assembly and also to the Provincial Legislative Councils through separate electorates.

The Legislative Assembly enjoyed legislative, executive and financial powers. The Ministers were drawn from it and were made responsible to it. Thus the Governor's Legislative Council which was created under the Act of 1861 developed into a full-fledged legislature under the Act of 1935.

The State Legislature under the new Indian Constitution did not differ much from the above pattern except that the Governor's overriding powers provided for under the Act of 1935 were removed in the new constitution.

11.3 State Legislature Under New Constitution

The Provincial Constitution Committee of the Constituent Assembly recommended that the Lower House of the Provincial Legislature be directly elected on the basis of territorial constituencies and through adult franchise, thereby giving up the election of representatives through separate electorates then in vogue.

The upper houses however, were to be indirectly elected on a functional basis. The provision for the second chambers at the provincial level became a controversial issue when the matter came for consideration in the Constituent Assembly. Sri H.N.Kunzru supported the idea of bicameralism while Sri B.G.Kher opposed it. The Provincial Constitution Committee of the Constituent Assembly left the decision on this issue to the respective delegations from the provinces. But it laid down certain guidelines for the composition of such second chambers if a province chose to have one. It is clear from the proceedings of the Constituent Assembly that the choice of having a second chamber was left to the provinces.

Just as we have the Parliament at the Union level, we have Legislatures at the State Level. Unlike the Parliament which is bicameral, most of the State legislatures have only one House. Only few have two houses.

A State Legislature when it has only one House is known as Legislative Assembly (Vidhana Sabha). If it has two Houses, the Upper House is known as Legislative Council (Vidhana Parishad)

11.4 Composition of Legislative Assembly

All the States plus the Union Territories of Goa, Pondichery, Mizoram and Arunachal Pradesh have Legislatures. The size of a Legislative Assembly depends upon the size of the population of the State or Union Territory.

The Legislative Assembly may consist of not more than five hundred and not fewer than sixty members, chosen directly from territorial constituencies in the State. In order to maintain uniformity in the population represented, the constituencies are reapportioned every ten years in accordance with the census. If the Anglo-Indian community is not represented in any Assembly, the Governor nominates an appropriate number of Anglo Indians as members. Further, Article 332 of the Constitution provides for the reservation of seats for the Scheduled Castes and Scheduled Tribes in the State Legislative Assemblies in proportion to their population.

11.5 Term of Legislative Assembly

The Legislative Assembly unless dissolved earlier has a five year term. After the expiry of the term, the Assembly stands automatically dissolved, unless its term is extended by the Parliament.

11.5.1 Qualifications of the Members

A Person is not qualified to become a member of the Legislative Assembly unless he is a citizen of India and has completed 25 years of age. He must also possess such other qualifications as may be prescribed in that behalf by or under any law made by the Parliament.

11.5.2 Disqualification of the Members

A person is disqualified from being a member of the Legislative Assembly if he holds any office of profit under the Government of India or the Government of any State. He can also be disqualified on grounds of unsound mind and insolvency. A member even if duly elected has to vacate his seat in the Assembly if he is disqualified on the grounds mentioned above by a court order. A member can resign his seat by writing under his hand a letter addressed to the Speaker. If it is accepted, his seat becomes vacant. A person cannot be a member of both the Houses of Legislature at the same time. If he is, he has to resign one of them. Similarly no person is allowed to be a member of the Parliament and the State legislature simultaneously. If a member of the House is absent for a period of sixty days without the permission of the House, it may declare his seat vacant. If a person is found guilty of corrupt and illegal practice in relating to his election, his election can be set aside by the High Court. Every member of the Legislature before taking his seat takes an oath before the Governor or a person appointed in that behalf by him (usually the Speaker).

11.5.3 Privileges of Legislative Assembly and its Members

Subject to the provisions of the Constitution and to the rules and standing orders regulating the procedure of the Legislature, there is freedom of speech in the Legislature. No member of the Legislature is liable to any proceedings in any court in respect of anything said or any vote given by him in the Legislature, or in any of its Committees. No person is liable in respect of the publication, by or under the authority of the House of any report, paper, notes or proceedings. The House may evolve such privileges and immunities to it, to its committees and to its members which are in accordance with those privileges and immunities evolved by the Lok Sabha to its members and committees. Legislative privileges in relation to the state legislatures are governed by Art 194 of the Constitution. These provisions confer on them the powers, privileges and immunities as enjoyed by the House of Commons as on 26th January, 1950 the day on which the Indian Constitution came into being. There have been a few conflicts regarding the privileges of the legislatures and the rights of the citizens.

11.5.4 Salaries and Allowances of the Members

The members of the Legislative Assembly are entitled to receive such salaries and allowances as may from time to time be determined by the legislature.

11.6 Presiding Officers of the Legislative Assembly

Every Legislative Assembly chooses two members of the Assembly as the Speaker and the Deputy Speaker respectively. The Speaker and the Deputy Speaker vacate their offices by if they cease to be the

members of the Assembly. The Speaker resigns his office by writing to the Deputy Speaker or vice versa. They may be removed from office by a resolution of the Assembly passed by a majority of the members of the Assembly. No resolution for the purpose of the removal of Speaker or Deputy Speaker is moved unless at least fourteen days notice is given. When a resolution for the removal of the Speaker is under consideration, he cannot preside over such a meeting. The Speaker has the right to speak and otherwise to take part in the proceedings of the Assembly when any resolution for his removal is under consideration. In all other cases, the Speaker has the casting vote.

During the absence of the Speaker from any sitting of the Assembly, the Deputy Speaker or if he is also absent, such person as may be determined by the rules of procedure of the Assembly or if no such person is present, such other person as may be determined by the Assembly will act as Speaker. The presiding officers are paid such salaries and allowances as are prescribed by the legislature of the State by law.

It is the responsibility of the Speaker to maintain decorum and order in the House and to interpret its rules of procedure impartially. His conduct in regulating the procedure or maintaining order in the House is not subject to the jurisdiction of any court. It is the privilege of the Speaker to endorse a Money Bill for transmission to the Upper House, and his decision whether a Bill a Money Bill or not is final.

11.7 Powers and Functions of Legislative Assembly

The State Legislative Assembly enjoys many powers and performs certain functions.

11.7.1 Legislative Powers

The Legislative Assembly has exclusive powers of legislation over subjects mentioned in the State list. It has powers to legislate on subjects mentioned in the concurrent list subject to the condition that it does not conflict with a law already made by the Parliament. All the ordinances of the Governor are subject to the approval of the Assembly.

11.7.2 Executive Powers

Of all the functions, the foremost function of an Assembly is law-making. The other important function is to keep vigil on the working of Government. The assembly does this by exercising control over the executive. The Council of Ministers remains in power as long as it enjoys the confidence of the House. The Ministry is accountable to the Assembly for all acts of commission and omission. Ministers are collectively and individually responsible to the Legislative Assembly. The Ministers must be members of the Legislature. No one can continue as a Minister for more than six consecutive months without being a member of either house of the Legislature. The members exercise control over the Ministry through questions, adjournment motions, calling attention motions and no-confidence resolutions.

11.7.3 Financial Powers

All the expenditure, taxation and borrowings by the State Government require statutory authorisation. An annual financial statement or budget of the estimated receipts and expenditure of the Government must be laid before the Legislature. Appropriations and grants must be voted by the Legislative Assembly. The annual appropriation and finance bills must be passed by the Legislature. The Legislature has no power to initiate financial legislation without the recommendations of the Governor but can propose cuts in expenditure and the reduction or abolition of taxes. In fact the essence of a representative government lies in the Legislature's control over the purse of the Government.

11.7.4 Judicial Powers

The Legislative Assembly safeguards the dignity and privileges of its members. It punishes any member or non-member who commits contempt of the House and behaves in a manner which lowers the dignity and prestige of the House.

11.7.5 Other Powers

The State Legislature exercises certain constitutional powers. Some of the provisions of the Constitution (dealing with the federal aspects) require ratification of atleast half of the State legislatures of the Union when they are amended.

The elected members of the Legislature take part in the election of the President of India. The Legislative Assembly elects one-third of the members of the Legislative Council.

It considers reports submitted by various autonomous agencies like the State Public Service Commission, Auditor-General and others.

The Assembly acts as a forum of public opinion. Its members bring to the notice of the Government various problems of the people and demand redressal of the same.

The Assembly is the popular chamber and performs its functions within the sphere allotted to it. It is more or less similar to the Lok Sabha in its popular character.

11.8 Legislative Council

As mentioned earlier, the constitution of a second chamber in a state is left to the choice of the State concerned. All the states have not opted for a second chamber. West-Bengal Punjab and A.P. which had opted for second chambers earlier got them abolished later. At present the States of Bihar, Jammu and Kashmir, Tamil Nadu, Maharashtra, Karnataka and Uttar Pradesh are having second chambers.

11.8.1 Composition

The strength of the Legislative Council in a State must not exceed one-third of the strength of the Legislative Assembly but should not have fewer than forty members. One-third of its members are to be elected by the Legislative Assembly from outside its membership, one-third by the local authorities such as the District Boards and Municipal councils and other local bodies specified by a law.

11.8.2 Financial Powers

The Legislative Council had practically no powers in financial matters. A money bill can not be introduced in the upper house. A money bill when passed by the Assembly is sent to the Council for its approval and it must be returned to the originating House within a period of 14 days. In case it is not returned in the stipulated time, it will be presumed that the Council has passed the same and the bill will be sent to the Governor for his assent. In case the Council makes any amendments or suggestions, the Assembly may either accept or reject them. The bill may then be deemed to have passed by both the Houses.

11.8.3 Executive Powers

In the executive field also, the Council has no powers. The members of the Council can ask questions, seek clarifications and move adjournment motions on matters of urgent public importance. But they have no control over the ministry. The ministry is under no obligation to resign even if the house expresses its lack of confidence in it.

The weakness of the Vidhana Parishad is evident from the fact, that its very creation and existence depends upon the will of the Legislative Assembly which can recommend its creation and its abolition. Thus, the supremacy of the Assembly over the Council is clear. In view of this, it is often questioned whether the Legislative Councils are serving any useful purpose. Voices are raised for their abolition on the ground that they are financially burdensome and devoid of popular character. They are described as merely centres of rehabilitation for those who have been rejected in the general elections. There is much truth in this criticism. All the traditional arguments in favour of second chambers have become ineffective in modern times because of the declining role of even the elected legislatures in the governance of the State.

11.9 Legislatures in Union Territories

The Union Territories do not enjoy the same status as the states of the Indian Union. Their governance is vested in the President by the Constitution. He acts through a chief commissioner or a Lieutenant Governor. The Union Parliament is empowered to create by law elected or nominated Legislatures and to setup Councils of Ministers and determine their functions and powers. The Union Territories which are endowed with legislatures and Councils of Ministers, however, exercise only delegated authority in the field of legislation and administration assigned to them.

The Legislative Assemblies in the Union Territories are directly elected by the people. The term of the Legislature is five years. The members elect a Speaker and a Deputy Speaker to conduct its business. The Assemblies enjoy all the privileges of the assemblies in other states.

The powers of the Legislature extend to the making of laws in respect of Parliament, one-twelfth by registered graduates of more than three years standing and one-twelfth by registered teachers of higher educational institutions. For the remaining one-sixth, the Governor nominates people "having special knowledge or practical experience in respect of such matters as literature, science, art and the cooperative movement or social service."

All elected members are chosen by proportional representation on the basis of single transferable vote. The Legislative Council is a permanent body and is not subject to dissolution. One third of its members retire every two years. The tenure of a members of the Council is six years.

Any Indian citizen who had attained 30 years of age and is qualified to become a member of the State Legislature, can become a member of Legislative Council. He should not hold any office of profit in any State or Union Government and should not have been convicted by any court for electoral malpractice or other crimes of agrievous nature.

The Council elects a Chairman and Vice Chairman from among its members. They have powers and functions similar to those of the Speaker and the Deputy Speaker of the Assembly.

The members of the Legislative Council enjoy privileges similar to those enjoyed by the members of the Legislative Assembly.

11.10 Powers and Functions of Legislative Council

The Legislative Council is the Upper House of a State legislature. When compared with the Legislative Assembly, it has much less powers and hence it is regarded by many as a secondary chamber.

11.10.1 Legislative Powers

A Legislative measure is either an ordinary bill or a money bill. In the Constitution, it is provided that an ordinary bill can originate in either of the two Houses of a State Legislature. When the Legislative Assembly passes a bill, it is sent to the Council for its approval. If the Council accepts the bill, it is sent to the Governor for his assent. But problem arises when a bill is either rejected by the Council or is modified by it. The Council may also decide not to return a bill. In such a case, the lower House will have to wait for a period of three months. In case the bill is not received within this period it will be presumed that the Council has rejected it. The Assembly may again pass the bill in its original or modified form, and sent it to the Council for its approval. In case the bill is neither approved nor returned in an amended form or if it is rejected within a period of one month, it will be deemed to have been passed by the Council.

There is no provision for a joint sitting of the two houses to resolve a dead lock between the two houses. In other words in the case of an ordinary bill, the Council can delay a bill at the most for a period of four months, matter enumerated in the State and Concurrent lists.

The Legislatures in the Union Territories function in accordance with the law made by the Parliament from time to time.

Check Your Progress - 1

Why do you think Legislative Councils are referred to as Second Chambers?

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See Para 11.11

11.10.2 Secretariat

For the smooth functioning of its work, a State Legislature is provided with a separate Secretariat. The Legislature by law can regulate the recruitment of the Secretariat Staff. The Secretariat is independent of the State executive and is guided and controlled by the Speaker.

11.11 Summing Up

To facilitate legislative process such as law making and the consideration of many important public issues, a number of Legislative Committees consisting of its members are formed, since the legislature meets only for a short time in a year. The committee system is modelled after the committees in the Parliament.

11.12 Suggested Readings

K.R.Acharya Ed. : Perspectives of India : Government and Politics

11.13 Model Questions

I Answer the following questions in about 30 lines.

1. Examine the beginnings of the representative governments in India.
2. Describe the composition, powers and functions of the Legislative Council.
3. Describe the composition, powers and functions of the Legislative Assembly.
4. Examine the relationship between the legislative assembly and the Legislative Council.

II Answer the following questions in about 15 lines

1. How has the 1935 Act provided responsible overnment in provinces.
2. What are the privileges of a legislature and its member.
3. Describe the powers and position of the Speaker.
4. Describe the status of Legislatures in Union Territories.

Dr.M.Ramchander

Units-12 : Patterns of State Government : Executive and Judiciary

Contents

- 12.0 Objectives
- 12.1 Introduction
- 12.2 Appointment of the Governor
 - 12.2.1 Qualification
 - 12.2.2 Tenure
 - 12.2.3 Privileges
- 12.3 Powers and Functions
 - 12.3.1 Executive
 - 12.3.2 Legislative
 - 12.3.3 Financial
 - 12.3.4 Judicial
 - 12.3.5 Discretions
- 12.4 Position of the Governor
- 12.5 The Chief Minister and Council of Ministers
 - 12.5.1 Ministry Making
 - 12.5.2 Size of the Ministry
- 12.6 Role of the Chief Minister
- 12.7 The State Judiciary
 - 12.7.1 Appointment & Service Conditions of Judges
 - 12.7.2 Powers & Functions
 - 12.7.3 Subordinate Courts
- 12.8 Suggested Readings
- 12.9 Model Questions

12.0. Objectives

After going through the unit you will be able to :

- * Explain the process of appointment of Governor
- * List the powers and functions of Governor
- * Sketch the Role of Chief Minister and
- * The elaborate powers and functions of State Judiciary.

12.1 Introduction

The Constitution provides for a Parliamentary system of Executive both at the Centre and in the States.

The Executive consists of those persons who perform the functions of Government. Anyone who is engaged in giving effect to the people's will as expressed through policies is a part of the Executive. There are two types of executives. The one that formulates the policies is known as Political Executive and the one that executes the policies is known as Permanent Executive. The Governor, the Council of Ministers constitute the political executive. The political executives is often distinguished between the nominal executive and the real executive.

The King of England, the President of India and the Governors of Indian States are perfect example

may at the most use his influence. The real power in such cases rests with the Cabinet. The office of the President of U.S.A. combines in itself both the real and nominal executive power as it is a Presidential form of government.

Though constitutionally the executive power is vested in the President and the Governors as the case may be, the power is really exercised by the Prime Minister and the Chief Minister respectively at the Union and the State level.

The constitution provides for a federal structure and hence the states are provided with their own governments. As stated earlier parliamentary system of governments exist in the States.

12.2 Appointment of the Governor

The head of the Executive of each state is the Governor. He is appointed by the President of India on the advice of the Union Council of Ministers headed by the Prime Minister. As a matter of convention, the Chief Minister of the concerned state used to be consulted. But now this practice is observed more in violation than respected. The Draft Constitution envisaged an elected Governor but it was felt that such a thing might bring him into conflict with the Chief Minister, affecting the smooth functioning of the state's administration. Such a thing would have been a contradiction in a parliamentary democracy. Therefore it was decided in the Constituent Assembly that the Governor should be nominated by the President. Conventionally, a person should not be appointed as Governor of his own State. Earlier, persons who distinguished themselves in public life, politics, administration and arts etc. known for their integrity were appointed to this high office but in the last two decades our experience shows that the high principles are not adhered to. Often one finds that persons who failed at the hustings or who have to be accommodated politically are being elevated to this office making it a sinecure.

12.2.1 Qualifications

The person to be appointed as a Governor of a State must be a citizen of India and must have completed 35 years of age. He should neither be a member of Parliament nor a State legislature. If he is a member of any of them he automatically ceases to be a member on assuming the office. He should not hold any office of profit during his tenure of office as Governor.

12.2.2 Tenure

The Governor is appointed for a period of five years and on completion of the term, he can be appointed for a second term. During the tenure of his office he may be transferred from one State to another State. The Governor holds the office during the pleasure of the President. The President may at any time withdraw his pleasure and remove the Governor without showing any reason. Though constitutionally, the appointment is made by the President, the actual choice is made by the Prime Minister.

The Governor receives a monthly salary of Rs. 5,500/-. His salary and allowances are determined by the Parliament. He is given a rent-free and fully furnished accommodation. The Governor before entering into his office has to take an oath of secrecy of affirmation by swearing that he shall protect and defend the Constitution and the laws.

12.2.3 Privileges

The Governor is not responsible to any court for the exercise and performance of his powers and functions. No criminal proceedings can be instituted against him during his tenure of office. No civil proceedings can be instituted in any court of law against him without two months prior notice.

12.3 Powers and Functions of Governor

12.3.1 Executive

Art. 154 of the Constitution states that all the executive powers of the State shall be vested in Governor and executive actions in the State shall be taken in his name. He appoints the Chief Minister and on his advice appoints other Ministers to the Council of Ministers. He appoints Chairman and other members of Public Service Commission. He appoints Advocate-General of the State. The Governor is consulted while the Judges of the State High Court are appointed by the President. The Governor as the head of the executive allocates business among the ministers and calls for any information on any matter relating to State administration. He has the right to be kept informed about the state of affairs in the State, and about any legislation that is proposed to be brought for approval before the legislature.

It is the responsibility of the Governor to send fortnightly reports about the situation in the State. If he reports that a situation has arisen in the State where the administration cannot run in accordance with the provisions of the constitution, the President can declare a State of emergency under Art. 356 and the responsibility of administration is taken over by the Governor.

The Governor is supposed to be a Constitutional Head of the State but he plays an active role in the formation of Ministry when there is no single party commanding a clear majority in the Legislative Assembly to form a Government.

The Governor has the power to dismiss the Council of Ministers if he thinks that the ministry has lost the support of the majority members of the House or the confidence of the people. He can dismiss a Ministry if it is guilty of conduct that justly calls for its dismissal.

12.3.2 Legislative

Just as the President of India is an integral part of the Union Parliament, the Governor of a State is also an integral part of the State Legislature. Though formally he is not a member of the State Legislature he performs many important legislative functions.

He summons, prorogues both the Houses of Legislature and can dissolve the State Legislative Assembly. The Governor addresses both the Houses of Legislature at the commencement of the new session after each General Election as well as their first session every year. The Governor addresses the Legislative Assembly or both the Houses as the case may be. He can send message to the State Legislature on a Bill pending in the legislature. The Governor nominates one-sixth of the members of the Legislative Council from amongst persons who have special knowledge of art, literature, science, co-operative movement and social service. The Governor nominates to the Legislative Assembly some members of the Anglo-Indian Community if he feels that the community has not received adequate representation in the House. All bills passed by the Legislature reaches the statute book only after receiving the assent of the Governor. He can withhold his assent and return a bill, except a money bill.

Check Your Progress - I

Under what conditions can a Governor of a State take over the Administration ?

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The most important legislative function of the Governor is the Ordinance making power. The Governor is empowered to issue Ordinance, which has the force of the law, to meet unforeseen situation. The Ordinance can be issued only when the legislature is not in session. Later the Ordinance has to be ratified by the legislature in the same way in which the Ordinance issued by the President is ratified by the Parliament.

12.3.3 Financial

The Constitution makes it the duty of the Governor to lay before the legislature a statement of estimated receipts and expenditure of the State for that year. No demand for grant can be made without the recommendation of the Governor. The contingency fund of the State is placed at the disposal of the Governor who is empowered to make advances out of it to meet unforeseen expenditure pending its authorisation by the legislature.

12.3.4 Judicial

The Governor of a State has the power to grant pardon, reprieves, respite or remission of punishment or to suspend, remit or commute the sentence of any person convicted of any offence against any law relating to a matter to which the executive power of the State extends.

The Governor receives and causes the report of the Accountant-General of the State placed on the table of the Legislature. He receives report on the work of the Public Service Commission and sends the same to the Council of Ministers and gets that placed before the legislature.

12.3.5 Discretionary

In several matters the Governor acts in his discretion such as the election of Chief Minister in case where no party has a clean majority in the House, dismissal of Ministry, dissolution of the Legislative Assembly, reserving a bill passed by the Legislature for the assent of the President and informing the President about the failure of constitutional machinery in the State. The Governor sends fortnightly reports to the Centre on his own.

12.4 Position of the Governor

The Governor is required to function as an independent personality in the State in which he is posted. He is not an agent of the Centre. He protects the interests of the Indian Union. But with the passage of time an impression has gained ground that he is an agent of the Centre in the State and working at the behest of the Centre. Many people hold the belief that he is an agent of the Centre only because he is appointed by it. This belief is further strengthened when he carries the responsibility of administering the state, whenever the President's rule is imposed.

But Governors with independent views and personality had brought independence to the office of Governor itself. Persons, who seek the Centre's patronage and who are after power and position bring down the prestige of the office of the Governor. Often the office of the Governor has been occupied by persons who are defeated in elections. The office of the Governor has practically become a political asylum. Under such circumstances the office of Governor has turned into a mere agency of the Centre. Governors, refusing to oblige the Centre are put to lot of inconveniences such as transfers from one State to another or denial of another extension of tenure.

Keeping in view the discretionary powers of the Governor, Justice K. Subba Rao suggested that there should be stringent conventions that should be developed in regard to the discretion or powers of the Governor since conventions are links between constitutional reality and political reality. The Administrative Reforms Commission in its report pointed out that the office of the Governor has ceased to be merely ritualistic and ceremonial since he has to face situations in which he has to take

decisions. Keeping in view his oath of his office the Governor must be impartial and must have a sense of fair play and he should command the respect of all parties in his State. He must have firm faith in the constitutional setup and the democratic values.

Thus as the Centre's representative the Governor's duty is to see that the federal balance and political stability are not sought to be destroyed. The exact range of his powers would greatly depend upon the political situation that exists in the state. If there is a great deal of political harmony in the State, the burden of the Governor is greatly reduced. Otherwise, his role becomes crucial. Harmonious relationship between the Chief Minister of the State and the Governor, recognition of Governor's usefulness by the State Government would bring a congenial atmosphere for the Governor to function properly.

12.5 Chief Minister and Council of Ministers

Though the Governor is the constitutional head of the State in practice, it is the Chief Minister who is the real head of the Government. The Chief Minister is appointed by the Governor. In administering the State a Chief Minister is assisted by Council of Ministers. The members of this council are his trusted party colleagues, whom he picks up in the hope that they will work together in a smooth and cordial manner and as a good team. They remain in power as long as they enjoy confidence of the Chief Minister, and when they differ from him on policy matters, they have no other alternative but to leave the Council of Ministers.

Chief Minister of a State, being the real Executive head of the State, enjoys vast powers. This also depends upon the personality of the person who holds the office.

12.5.1 Ministry Making

One of the important tasks of the Chief Minister, immediately after his being elected as leader of the party is to form the Council of Ministers. The Chief Minister is to see that all the shades of opinion, groups, communities, regions in the party are represented properly.

This task becomes much more difficult if it is a coalition ministry. Further his problem will be more complicated if he has rivals of equal stature in his party and the party is faction-ridden. Problems can also arise if he has to abide by the advice of the Party's central leadership.

Even after such meticulous care that is taken in the formation of the Ministry, the stability of the Ministry depends upon various factors. The full term of five years is not guaranteed even in the States where there is one party in command. This is more true in the case of Congress-rule States. The history of the coalition ministries is not different either. If the States is ruled by parties other than the Congress, it has become a practice with the Centre to see that the Government in the State is toppled or destabilised. If the Congress is in power, then inner politics of the party resulted in the destabilisation of the government. We can cite many cases where the Ministries celebrated the completion of one year in office, as if it was a great occasion to celebrate. In coalitions, the ideological differences between uniting units may cause breakdown. But with the Congress party it is often personality clashes which caused the downfall of the Ministries. Casteism, communalism, regionalism also play their role in bringing down the State Governments. The factions in Congress now-a-days are formed more on these grounds rather than on any ideology.

12.5.2 Size of the Ministry

There are no hard and fast rules regarding the size of the Ministry. It is for the Chief Minister to decide about it. Though a small Ministry is considered to be ideal and effective, its size is getting inflated for a variety of reasons.

It is recommended by the A.R.C. that size of the cabinet should not exceed one tenth of the total strength of the Legislature. But this has quite often not been adhered to. Similarly it is for the Chief Minister to decide whether he will like to have a two tier or three tier Ministry. In a two tier Ministry, there are only Ministers of the cabinet rank and Ministers of state rank, where as in a three tier Ministry in addition to these two categories of ministers, there are also Deputy Ministers. Another function of the Chief Minister is that of allocation of portfolios, which again is not an easy task. There are certain prestigious departments and every minister will like to have these ministries under their charge. The Chief Minister therefore has to see that senior cabinet colleagues get important portfolios.

In a coalition government or an electoral alliance arrangement quite often the allocation of portfolios is decided before hand. While allocating portfolios, Chief Minister is to see competence of the Minister concerned. But in all cases, the cabinet colleagues are to accept the leadership of the Chief Minister. If for any reason a minister finds himself unable to pull on with the Chief Minister, the only alternative for him is to leave the cabinet. In case the Minister is not prepared to leave the Cabinet the Chief Minister might drop him, by recommending his dismissal to the Governor which the latter is quite competent to do, because constitutionally Ministers hold office during the pleasure of the Governor. Such an extreme step is taken only in extreme circumstances.

Again it is the responsibility of Chief Minister to see that all ministers work in close co-operation with each other and that the council of ministers work as a well-knit unit and a well co-ordinated team.

As leader of the team he presides over the meetings of the cabinet and council of Ministers. All policy decisions are taken in these meetings. As a leader of the House he approves the agenda and he decides what is to come before the House.

12.6 Role of the Chief Minister

In a parliamentary form of Government the executive, headed by Chief Minister and the legislature are supposed to work in close co-operation with each other. As leader of the House he makes all policy statements in the house and whenever, he feels that his cabinet colleagues are not in a position to satisfy the house he comes forward to help them. He defends Government's policies and programmes in the house and faces the opposition whenever, the need arises. Since we have adopted parliamentary type of government, the ministers are individually and collectively responsible to the House. The life of the Ministry depends upon the confidence that it commands in the legislature. The Chief Minister communicates the views of the House to the Governor and as such he acts as a channel between the two. He decides for all practical purposes the agenda of the House.

In respect of legislature his most important power is that of the dissolution of the house. If at any time the Chief Minister advises the Governor that the Assembly be dissolved, the latter is not bound by that advice in case he feels that there is no justification for it. In this connection it may be noted that the Chief Minister's resignation on political grounds is considered to be the resignation of the entire cabinet. Thus the cabinet also does not try to irritate the Chief Minister because there is every possibility that he might resign and the new one may not include some of them in the new cabinet. This ensures the collective responsibility.

Though in theory all appointments are made by the Governor, in practice the power of patronage vests with the Chief Minister. All the important offices are filled only on the advice of the Chief Minister.

Chief Minister is a link between the Governor and the Council of Ministers on the one hand and the legislature on the other. He communicates their view point and ensures that there is no misunderstanding between the two. He keeps the Governor informed about the latest political situation in the State and also the problems with which he is faced. He also informs him about legislative proposals pending before the Council of Ministers. He also furnishes such information to the Governor as and

when necessary. He decides what type of information should be divulged to the house and what should be kept away from it on grounds of public interest. He is the real person to decide which are the important matters and for which party whips should be issued. As leader of the house responsibility falls on him for maintaining decorum in the house and in seeing that business of the house, is transacted in accordance with rules of procedure on time schedule. Therefore Chief Minister is pivotal person in State administration.

Though the Chief Minister is vested with many powers his real position depends on several factors such as his personality, his relationship with party high command, the support he receives from lower levels of his party in the state.

12.7 The State Judiciary

The Indian constitution has provided for a unified and integrated judiciary for the whole of the country and all the courts apply the same civil and criminal law. At the apex of these judicial organisation stands the Supreme Court and below it are the High Courts in the States and subordinate Courts at the district level. The provisions relating to organisation, jurisdiction and power of the High Courts have been incorporated in the constitution and the State legislatures or Executives have no power whatsoever to exercise any control over the High Courts and to alter their jurisdiction in any way. Every State has a High Court which exercises power within the territorial jurisdiction of a State. Sometimes two or more States may have one High Court. For instance States of Punjab, Haryana and the Union territory of Chardigarh have a common High Court.

12.7.1 Appointment and Service Conditions of Judges

A High Court consists of a Chief Justice and such other judges as the President may from time to time, determine. The Chief Justice of a High Court is appointed by the President in consultation with the Chief Justice of India and the Governor of the State concerned.

A person to be eligible for appointment as a judge of the High Court (a) must be a citizen of India (b) must have held a judicial post in the territory of India for atleast ten years or (c) must have been an advocate of the High Court for atleast ten years or (d) must be in the opinion of the President a distinguished jurist.

A judge of a High Court holds office till he attains the age of sixty-two years. He can resign his post earlier also. A judge can be removed from his office before the expiry of his term only on grounds of proved misbehaviour or incapacity and only if both the majority of the total membership of each House and by not less than two-thirds majority of the members present and voting.

Check Your Progress - 2

Who appoints the Judges of High Courts ?

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See Para 12.8.1

The salaries of the Chief Justice and other judges of the High Court have been specified in the constitution and are charged to the consolidated fund of the State. This means that the salaries are not subject to the annual vote of the State legislature or union parliament. The Chief Justice of the High Court receives a monthly salary of Rs. 4,000/- and other judges get Rs. 3,500/-. In addition to the salary every judge of High Court receives other allowances. The service conditions enjoyed by a judge of the High Court cannot be modified to his disadvantage during his tenure. However, the President of India is empowered to reduce the salaries of the judges during the operation of proclamation of financial emergency. The retired judges are entitled to draw a pension, which is paid out of the consolidated fund of India. Originally, the retired judges were not allowed to practice but the Constitution, Seventh, Amendment Act, permitted them to practice before the Supreme Court and any High Court other than the one in which he was a permanent judge. Every judge of the High Court has to take an oath of office before assuming his duties.

Judges of the High court including the Chief Justice can be transferred by the President from one High Court to another after consulting the Chief Justice of India. To cope with the increased arrears of work the President can appoint additional judges for a period not exceeding two years.

12.7.2 Powers and Functions

The powers of the State High Courts have not been dealt with by the constitution in as much detail as those of the Supreme Court of India. This is probably due to the fact that Supreme Court was set up for the first time under the Constitution and the High courts were already working and enjoying well-defined jurisdictions. The Constitution simply states that the High Courts will exercise the same jurisdiction and powers they were enjoying before the commencement of the Constitution. The provision, is however, subject to other provisions of the Constitution and law of the appropriate legislature. The High Court of a State enjoys the following powers :

1. The High Court is the highest court of appeal in the State both in civil and criminal matters, as well as matters connected with the wills, bankruptcy, admiralty and matrimonial cases.
2. The High Courts of all the States have been authorised to issue directions, orders or writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari etc. for the enforcement of the Fundamental Rights of the citizens or any other purposes.
3. The High Court entertains appeals in civil, criminal and revenue matters if it is satisfied that in such cases a substantial question of law is involved or if the subordinate court or the tribunal has acted without or in excess of jurisdiction or if there has been an error of law. The High Court can withdraw such cases from the lower courts and bring it before itself and decide it or determine the said question of law and return the case to the subordinate court along with a copy of its judgement on that point.
4. The High Court has the power to declare any law passed by State legislature or Union parliament as null and void or ultravires, if it finds it in contravention of some provisions of the Constitution.
5. Every High Court has powers to superintend the working of courts and tribunals throughout the territory in relation to subjects over which it has jurisdiction.

In the exercise of this power the High Court may (a) call for returns from such courts (b) make and issue general rules and prescribe forms for regulating accounts by the officers of such courts. The power of Judicial superintendence has been given to the High Court to keep the lower courts and tribunals within the bounds of their authority and to ensure that they do what their duty requires and they do it in a legal manner. In exercise of its powers, the High Court can, transfer cases from one court to another. It must be noted that the Supreme Court of India has no such power of superintendence over the High Courts.

6. The High Court is a court of record and has the power to punish for contempt of itself. Its decisions are binding and cannot be questioned before lower courts.

7. The constitution empowers the chief justice of the High Court to appoint officers and servants of the High Court. The conditions of service of officers and servants of a High Court are prescribed by the rules made by the Chief Justice. However, the approval of governor is essential before finalising the rules regarding salaries, allowances, leave, pension etc.,. Sometimes the Governor of the State may ask the High Court to make new appointments in consultation with the State Public Service Commission. The jurisdiction of the High Court can be extended or contracted by the Union Parliament.

12.7.3 Subordinate Courts

The constitution of India, has made detailed provisions regarding the subordinate courts and has tried, to a large extent, to make these courts independent of the Executive. The constitutional provisions dealing with the subordinate courts have two main objectives : (a) to provide for the appointment of District and subordinate judges and prescribe their qualifications and (b) to place the whole of the civil judiciary under the control of the State High Court.

Judges of the District court are appointed by the Governor in consultation with the judges of the High Court. Likewise, the postings and promotions of the District Judges are also made in consultation with the High Court. A person is eligible for appointment as District Judge if he has been either (a) an advocate with seven years standing or (b) is an officer in the service of the Union or the State. Judges other than the District Judges are appointed by the Governor in accordance with the rules framed by him in this regard, in consultation with the High Court and the State Public Service Commission.

The High Court has been given the power to exercise supervision over all District Courts and other subordinate courts. The High Court exercises this power in respect of postings, promotions, grant of leave etc., of all the persons belonging to the State judicial service. The structure and functions of the subordinate courts are more or less, uniform throughout India. For the purpose of judicial administration, each state is divided into a number of Districts, each under a District judge. Below the District and Sessions Court, there are Civil Criminal and Revenue Courts

The civil courts in India are arranged in a hierarchical order. At the apex of this organisation stands the District Court, presided over by the District judge, who is the head of the judicial organisation of the District. The District Judge enjoys both administrative and judicial powers. On the administrative side the district judge supervises the working of the civil courts in the district and distributes the work among them. he enjoys both original and appellate jurisdiction. Appeals from the District courts can be taken to the High Court of the State. In addition to the above powers in civil cases, the District courts have jurisdiction over all matters like marriage, divorce, guardianship of minors and lunatics etc.

Below the District courts come the courts of senior sub-judge courts, sub-judge courts and small causes courts in hierarchical order. The small causes courts or Munsiff's courts are established in big towns for prompt disposal of ordinary cases involving sums below Rs. 500/-. Its decisions are normally not appealable. Any legal error can, however, be rectified in revision. Above the small causes courts are the courts of sub-judges. These courts can try all cases where the sum involved does not exceed Rs. 5,000/-. Above the courts of sub-judges are the courts of senior sub-judges which can deal with cases involving any amount of money. All these courts have only original jurisdiction and appeals against their judgement can be taken only to the District Court.

The subordinate criminal courts in India are also organised in hierarchical order. At the top of all the criminal courts stands the court of sessions judge. The sessions court is the highest criminal court in the district and tries all criminal cases involving murder and other serious offences duly committed to it by a first class Magistrate. This court is competent to award any punishment sanctioned by law. However, every death sentence passed by a session court is subject to the confirmation of High Court. Below the Session Court are courts of first class magistrates can try minor criminal cases involving punishment upto one month and fines upto Rs. 50/-. The second class magistrate possesses only

original jurisdiction, and cannot entertain appeals. The first class magistrate can hear appeals against the decisions of the lower courts. he can award legal punishment upto two years and fine not exceeding Rs. 1,000/-.

It may be observed that the District and Sessions court is one and the same and the same person acts as the District and Sessions judge. When he deals with civil cases he is designated as the District Judge and when he hears the criminal cases he is known as the Sessions Judge.

12.8 Suggested Readings

A.C.Kapoor : The Constitution of India •

12.9 Model Questions

- I. Answer the following questions in about 30 lines**
1. Examine the position of Governor in the Indian System.
 2. Describe the powers and functions of the Governor.
 3. Describe the Changing Role of the Governor in recent times.
 4. Describe the powers and functions of Chief Minister.
 5. De you agree with the view that the Chief Ministers are nominated rather than being elected ? Discuss
 6. Examine the composition, position, powers and functions of High Court.
- II. Answer the following questions in about 10 lines**
1. Appointment of Governor.
 2. Discretionary powers of Governor.
 3. Council of Ministers.
 4. Oualifications of High Court Judges.

Dr.M.Ramchander

Unit - 13 : Union-State Relations

Contents

- 13.0 Objectives
- 13.1 Introduction
- 13.2 Distribution of Powers
 - 13.2.1 Union List
 - 13.2.2 State List
 - 13.2.3 Concurrent List
- 13.3 Emergency and State List
- 13.4 Powers of Parliament
 - 13.4.1 Parliament & Repugnancy
 - 13.4.2 Parliament's power to legislate for States
 - 13.4.3 Parliament's Power to Legislate for States
 - 13.4.3 Other provisions which empower the Centre
- 13.5 Administrative Relations
 - 13.5.1 Administering of Central Subjects using the State Machinery
 - 13.5.2 Delegation of Powers from Union to States
 - 13.5.3 Judicial Set Up
 - 13.5.4 Inter-State Disputes
- 13.6 Financial relations
- 13.7 Finance Commission
- 13.8 The Planning Commission
- 13.9 Summing Up
- 13.10 Suggested Readings
- 13.11 Model Questions

13.0 Objectives

After going through the unit, you will be able to :

- * Explain the distribution of powers between Union and States and
- * Identify the Areas of conflict between Union and State

13.1 Introduction

Indian federalism is the product of an evolutionary process which has transformed a highly centralized political system into a decentralised one under which the constituent units - the states as they are called, enjoy autonomy in a certain sphere guaranteed by the Constitution.

The framers of the Indian constitution were nearly of the unanimous opinion "that they wanted one state, and one union". At the same time, they also wanted that there should be enough scope for every province to grow and expand and that there would be nothing to prevent a province from reaching its ultimate goal consistent with common obligations. Therefore, they devised a scheme of government which was to be federal with a strong centre. In any discussion on centre-state relations one cannot overlook the historical factors that have influenced the constitutional fathers at the stage of framing the constitution. The distribution of powers between the Union and the States in India has been influenced by historical political and economic factors.

The present Constitution was preceded by an ongoing process of constitutional development spread over about nine decades before independence.

The basic framework of the pattern of distribution of powers between Union and States was contained in the government of India Act, 1935.

The 1935 Act had its own special federal features, many of which are retained by the present constitution. The Act was in its turn influenced by the constitutional provisions prevailing before 1935.

For instance the Government of India Act 1919 had provided for the division of legislative powers between Centre and the provinces. For the first time provinces were given statutory recognition in respect of the subjects of education, agriculture, land revenue, public health, excise, medicine, local government etc.

The partition of undivided India into the two-nation states of India and Pakistan cleared the way for the members of the Constituent Assembly of India to have a central government much stronger than envisaged in the Cabinet Mission Plan.

Besides the above factors, the considerations that weighed on the mind of the constituent Assembly were (a) National Security and integrity (b) The capacity of the Union government to show initiative and direction vis a vis the constituent states regarding matters of crucial importance in social and economic development, (c) Competence of the Union government to coordinate the activities of the states in various governmental functions and (d) Possibility of the Union intervening in matters where the state governments would default. There were also the immediate goals of social revolution, improving the standard of living and increasing industrial and agricultural productivity. To achieve these goals, they felt that there was need for a strong central authority.

13.2 Distribution of Powers

The basic provisions laying down the distribution of powers between the union and the provincial governments are found in chapter II of the constitution, entitled 'Relations between Union and States'.

13.2.1 Union List

In our constitution we have followed a system in which there are two kinds of legislative processes, one for the centre and the other for the provinces. The residue is left to the centre. An additional list called the Concurrent list has also been added in our constitution. The Union list consists of ninety-seven items and is the largest of the three lists. It includes items such as defence, armed forces arms and ammunition, atomic energy, foreign affairs, war and peace, citizenship, extradition, roadways, shipping and navigation, airways, posts and telegraphs, telephones, wireless, broadcasting, currency, foreign trade, inter-state trade and commerce, banking, insurance, establishment of standards in weights and measures, control of industries, regulation and development of mines, mineral and oil researches, elections, constitution and organisation of the Supreme Court, the High Courts and the Union Public Service Commission, income tax, taxes in capital value of assets, estate duty etc. Parliament has exclusive powers of legislation with regard to the items mentioned in this list.

13.2.2 State List

The State List consists of sixty-six items. Some of the more important items are public order, police, administration of justice, local government, public health and sanitation, intoxicating liquors, education, agriculture, animal husbandry, water supplies and irrigation, forests, fisheries, trade and commerce within the State, State public services and State Public Service Commission, land revenue, taxes on agricultural income, taxes on lands and buildings, estate duty and succession duty on agricultural lands, duties of excise on alcoholic liquors, opium etc. The State legislature has the power of legislation with regard to items included in the State list.

13.2.3 Concurrent List

Concurrent List consists of forty seven items. There are items with respect to which uniformity of legislation throughout the Union is desirable but not essential. As such they are placed under the jurisdiction of both

the Union and the States. The list includes such-items as marriage and divorce, transfer of property other than agricultural land, contracts, bankruptcy and insolvency, trustees and trusts, civil procedure, contempt of court, vagrancy, lunacy and mental deficiency, adulteration of foodstuffs, drugs and poisons, economic and social planning, commercial and industrial monopolies, trade unions, social security, labour welfare, legal, medical and other professions, electricity, newspapers, books, printing presses, stamp duties, etc.

The Parliament of India and the State legislatures have concurrent power of legislation over the items included in this list. Once the Parliament enacts a law on an item in this list, parliament's law shall prevail over any State law.

Let us study the legislative power and analyse whether the distribution of legislative power has had a strong tendency towards centralisation. Article 245 stipulates that the Parliament can make laws for the whole or any part of the territory of India and the Legislatures of a State might make laws for the whole or part of the State. While there were territorial limits to the laws of the State Legislatures, clause (8) of Article 245 provided that there could be no such limitation on the laws of Parliament.

The Constitution, clearly demarcates the law-making power of the Parliament and the State Legislatures. A perusal of certain Articles reveal the predominance of the Parliament in the legislative field. Article 249 for instance empowers the Parliament to legislate with respect to any matter in the state list in national interest. This Article gives a jolt to the federal principle. The Article empowers the Rajya Sabha to transfer to the Union, legislative jurisdiction, on any matter in the State List provided a resolution is approved by not less than two-thirds of the members present during voting. This Article enables the Rajya Sabha which represents the States, to put in the Concurrent list any matter that is of national interest.

Check Your Progress - 1

Give a few examples of items in the Concurrent List

Compare the Answer with para 13.2.3

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The Emergency provisions of the Constitution can drastically alter the distribution of powers. They comprise the nine Articles of part XVIII of the principle. The Article empowers the Rajya Sabha to transfer to the Union, legislative jurisdiction on any matter in the State list provided a resolution is approved by not less than two-thirds of the members present during voting. This Article enables the Rajya Sabha which represents the States to put in the Concurrent list any matter that is of national interest.

There is scope for misuse of this Article in the event of a number of smaller states coming under the control of one or more of the opposition parties. The Central government may not like their policies and the direction in which they are moving.

13.3 Emergency - and State-List

The Emergency provisions of the Constitution can drastically alter the distribution of powers. They comprise the nine Articles of part XVIII of the Constitution. According to Article 352, the first of these,

the President may proclaim that a state of emergency if he is satisfied that national security is threatened by external aggression or internal disturbances. According to this Article, the Constitution becomes, for all practical purpose unitary.

During an Emergency, Union executive power extends to giving directions to States concerning the exercise of their executive power, and Parliament may legislate on any matter, whether or not it is normally in the Union List.

Art. 250 empowers Parliament, while a proclamation of emergency is in operation, to make laws for the whole or any part of the territory of India with respect to any matters enumerated in the State List.

Art. 353(b) supplements the unrestricted authority of Parliament to make laws even on matters enumerated in the State List by authorising it to confer by law power and impose duties upon Union and Officers of the Union in the matters which are not enumerated in the Union List.

Art. 354 also empowers the President to order the suspension of the provisions of Articles 268 to 279 relating to distribution of revenues between the Union and the States while a proclamation of emergency is in operation.

In short, the Union can, in an Emergency, actual or apprehended, withdraw all powers from the States and also the financial support it gives, and function as a unitary state.

The Indian Constitution envisages also the possibility of a financial emergency and makes provisions for restricting the financial authority of the States when such emergency arises. It empowers the President to issue a proclamation of Financial Emergency, if he is satisfied that a situation has arisen where by the financial stability or credit of India or any part of her territory is threatened. When such a proclamation is issued, the executive authority of the Union is extended to the giving of directions to any State to observe such canons of financial propriety, as may be specified in the directions.

The two provisions authorizing the Union to legislate on subjects in the State List wholly in an emergency and on specified subjects otherwise; do not extinguish the legislative powers of the States. Art 251 makes it clear that Art. 249 and 250 confer only enabling power on Parliament over the matters in the State List. In other words, the Articles may be said to make the State List (List II) wholly a Concurrent List.

As in the case of concurrent power, the provisions of a State Law remains good in so far as they are not repugnant to the relevant provisions of the Union law. As soon as the Union law expires, a State law loses its repugnancy and becomes valid in its entirety.

13.4 Powers of the Parliament.

Under Article 252 of the constitution is made a provision, whereby if the legislatures of two or more States desire that any of the matters with respect to which Parliament has no power to make laws for the States, except as provided in Article 249 and 250, should be regulated in such states by Parliament by law, and if resolutions to that effect are passed by all the Houses of the Legislatures of these States, it shall be lawful for Parliament to pass or act for regulating the matter accordingly. Such a law extends only to States where legislatures make the request or which afterwards adopt the law. Any Act so passed cannot be amended or repealed by the legislatures of any of the States to which the law applies. Once a State has requested the Parliament to legislate, it cannot on its own, withdraw from this jurisdiction. This sort of provision strengthens the Parliament. Where it alone can amend or repeal the law, this may act as a deterrent to the States availing themselves of this arrangement.

List I of the Seventh Schedule exclusively reserves to the Union, foreign affairs covering all matters, which brings the Union into relation with any foreign country.

Art 253 gives the power to the Parliament to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries, or any decision made at an international conference, organisation or other body. This power authorizes the Parliament to assume legislative authority over the state subjects. Its enactment hence has superior authority over relevant state enactment.

13.4.1 Parliament and Repugnancy

Both Parliament and the Legislatures of States are competent to enact a law, concerning any subject of the Concurrent list. This may lead to conflict when the provisions of a Union law might conflict with the provisions of a State Law on the same subjects.

Art 254 provides that the law passed by Parliament whether passed before or after the law made by the legislature of a State, should prevail, and the law made by the legislature of the State should, to extent of repugnancy, be void. But if the State law on a subject of the Concurrent List has been reserved for the consideration of the President and had received his assent, it should prevail in that State. This does not prevent the Parliament to enact a law adding to, amending, varying or repeating the law so made by the Legislature of the State.

13.4.2 Parliament's power to legislate for States

The overall dominance of the Parliament is further seen in Art 356 and 357. Art. 356 provides that if the President is satisfied that a situation had arisen in which government of a state could not be carried on in accordance with the provisions of the constitution, he might declare that the powers of the legislature of that State would be exercisable by or under the authority of parliament. Further Art. 357 empowers the Parliament to delegate the law-making power to the President. The overall effect would be that the State legislature is suspended or dissolved and the law-making power would vest in Parliament during the period of proclamation of Emergency. Art. 356 is one of the provisions of the constitution which was most keenly debated in the Constituent Assembly. Critics of this Article felt that the provision would reduce the autonomy of the States.

13.4.3 Other provisions which empower the Centre

There are other areas where one can see the subordination of the States to the Union. Clause (3) of Art. 31 which deals with the right to property provides that if the legislature of a State adopted a Bill providing for a compulsory acquisition of movable property for public purpose, such a bill would not be effective unless it had been reserved for the consideration of the President and had received his assent.

Further Articles 309 and 303 together give the Parliament general power to impose restrictions on freedom of trade, commerce and intercourse between one State and another or with any part of the territory of India provided that they are required in the public interest and are non-discriminatory.

Art. 303 gives the Parliament the right of giving preference or making discrimination should there be scarcity of goods in any part of the territory of India justifying this exceptional treatment. There are certain other provisions relating to the authority of the President in the matters of State Legislation and administration which could be used to interfere with the States autonomy.

Check Your Progress - 2

Explain Article 254

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Article 200 gives the right to the Governor to reserve a bill passed by the State Legislature for the consideration of the President. It is nowhere enjoined that the Governor in making such a reference should act on the advice of his Council of Ministers.

13.5 Administrative Relations

A federal Constitution envisages the existence of dual governments, division of powers and arrangements for their administration. Art. 256 says that the executive power of every State is to be exercised in such a way as to ensure compliance with the laws made by the Parliament. The Union Executive is also empowered to give necessary directions to a State.

13.5.1 The administering of Central subjects using the State machinery

The Central Executive has been empowered to issue the necessary directions to the States. Art 257 says that the executive power of every State should be so exercised not to impede or prejudice the exercise of the executive powers of the Union. This Article gives the necessary power to the Union Executive to issue directions when necessary. These directions to the State can be in the context of construction and maintenance of means of communication declared to be of national or military importance. The Union Executive can give directions to the States in regard to protection of railways in the State.

13.5.2 Delegation of powers from Union to States

Art. 258 of the constitution has made a two-fold provision of delegation of Union powers to the States. First the Union Government may, with the consent of a state government, delegate to it, the Union's executive powers on specified subjects conditionally or unconditionally. Secondly, Parliament may, while legislating on a Union subject, confer powers and impose duty and / authorise a state or its officers and authorities there of for administering the law made. In short, the Parliament may directly specify the scope of any delegation made or it may leave it to the executive to do so.

Subsequently the government decided to amend the constitution and a new Art. 258-A was inserted. The State could entrust to the Government of India functions of the State, with its consent.

13.5.3 Judicial Set-Up

Judicial power is exercised in India by a simple set of courts, civil, criminal and revenue, whether they deal with disputes in respect of legislation made by the Parliament or the state legislature.

The Supreme Court is at the apex of the hierarchy of courts, civil, criminal revenue and of quasi-judicial tribunals. There is no exclusive Union agency in the states for the administration and execution of Union Laws. The State's legal apparatus is used for this purpose.

13.5.4 Inter-State Disputes

Art.262 deals with waters of Inter-State rivers and river valleys. Parliament may by law, provide for adjudication of any dispute or complaint with respect to the use, distribution or control of the waters of any inter-state river or river valley. Parliament may also provide that neither the Supreme Court nor any other court shall exercise any jurisdiction in respect of any such dispute or complaint.

Art 263, of the constitution empowers the President to appoint an Inter-State Council whenever necessity is felt. The Council is empowered to look into the following areas of disputes:

1. to enquire in to the advice upon disputes which may have arisen between States.
2. to investigate and discuss subjects in which the states or the Union and the States have a common interest.
3. to make recommendations upon these subjects and, in particular, recommendations for the better coordination of policy and action in respect of these subjects.

13.6 Financial Relations

Prof K.C. Wheare wrote "under classical federal constitutions both general and regional governments must each have under its own independent control financial resources sufficient to perform its exclusive functions".

The framers of the constitution asserted that they made adequate provisions to safeguard the financial stability of the States. The constitutional provisions dealing with financial relations between the Union and the States are the result of these considerations.

Broadly, these provisions can be divided under the following heads :

- * Union sources of revenue
- * State sources of revenue
- * Taxes levied and collected by the Union but assigned to the States.
- * Taxes levied and collected by the Union but shared between the Union and States.
- * Grants-in-aid.

All major sources of revenue came directly under the Union. The major sources of revenue are customs duties, corporate tax, currency coinage and legal tenders, foreign exchange, foreign loans, post office savings, revenues from postal Telegraph, Railways Stamp Duty, Income-tax and Capital tax, Excise duties. There are nearly twenty items which provide major sources of revenues to the Union.

The major sources of revenue to the State governments are land revenue, sales tax, excise duties, estate duty etc. There are nearly twenty items included in the States List. These items do not enrich the states. Hence, the following financial provisions are provided in the constitution.

1. The Central Government is responsible for the levy and collection of income tax but this must be compulsorily shared with the states.
2. The central government will collect the excise duties but this also, if so needed, could be shared with the States.
3. There is a provision that the central government could make grants-in aid to the State governments.

13.7 Finance Commission

The Finance Commission is an indigenous idea. According to this the President of India, should, within two years after the inauguration of the Constitution and thereafter on the expiry of every fifth year or at such earlier interval as he thinks necessary, constitute a Finance Commission. The Commission will consist of a Chairman and four other members who are all to be appointed by the President.

Art. 280 of the Constitution provides for constitution of the Finance Commission to make recommendations on the following issues.

1. The distribution between the Union and the States of the net proceeds of taxes which are to be or may be divided between them and the allocation between the states of respective shares of such proceeds.
 2. The principles which should govern the grants-in-aid of the revenue of the States out of the Consolidated Fund of India, and
 3. any other matter referred to the Commission by the President in the interests of sound finance.
- The provision of a Finance commission is to ensure that the States share of the distribution will not be made arbitrarily by the Union but will be based on the recommendations of an independent commission which will assess the changing needs of the States in making them. So far there has been seven Finance Commissions.

Analysing the working of the finance Commissions, Pylee comes to the following conclusion , 1) The number of regular terms of reference have been increasing steadily, 2) The number of additional terms of reference have not only been increasing but also becoming a regular feature.

13.8 The Planning Commission

The concept of planning is not new to India. In 1930s plan consciousness emerged in India when the Indian National Congress adopted planning as an essential part of its political programme.

The Planning Commission was set up by an executive order. This was done because of the absence of a constitutional provision for the same. The terms of reference of the Planning are very wide. The Planning Commission has played a very important role. The nature of its composition, with the Prime Minister and other Central Cabinet Ministers on it makes it a great political authority. It is an extra constitutional body having more powers than the Finance Commission. It is a creation of the centre and is therefore a subordinate body of the government of India. The National Development Council at the suggestion of the Planning commission was set up in 1952 to serve as the highest reviewing and advisory body in the field of planning. The Prime Minister and Chief Ministers of all the States along with the members of the Planning Commission constitute the Council. As a federal device it is functioning merely as a rubber stamp of the Planning Commission.

13.9 Summing Up

The scheme of distribution of legislative, administrative and financial powers between the Centre and the States as discussed above establishes the predominance of the Centre over the States. Moreover, the States are also controlled by a number of constitutional and extra-constitutional agencies and instruments.

13.10 Suggested Readings

M.V.Pylee : The Constitution of India

13.11 Model Questions

I. Answer the following questions in about 30 lines

1. Examine the federal features in the constitution?
2. The Legislature powers envisaged in the constitution reveals a strong tendency towards centralization. Discuss.
3. The predominance of the Parliament is an important factor in centre state relations. Comment.
4. Examine the Emergency provisions which drastically alter the distribution of powers.
5. Examine the provisions which safeguard the financial stability of the States?

II. Answer the following questions in about 15 lines

1. Discuss the federal features of Act of 1935.
2. What are the features the Finance Commission?
3. Role of Planning Commission.
4. Examine the Judicial set-up.

Prof. F.D. Vakil

Unit-14 : Union - State Relations : Trends

Contents

- 14.0 Objectives
- 14.1 Introduction
- 14.2 Breakdown of Uniparty system
- 14.3 The phase of coalition politics 1967 - 72
- 14.4 Confrontation with the Centre
- 14.5 Demand for Autonomy
- 14.6 Call for State autonomy
- 14.7 The Akali Dal in Punjab
- 14.8 Issues leading to confrontation between Union & States
- 14.9 Review of centre-State Relations
- 14.10 Raramannar Committee
- 14.11 The Fifth General Elections for state Assemblies and Centre-State relations
- 14.12 Centre-State Relations - Janata Period
- 14.13 West Bengal & the Centre
- 14.14 Recent Trends
- 14.15 sarkaria Commission
- 14.16 Summing Up
- 14.17 Suggested Readings
- 14.18 Model Questions

14.0 Objectives

After going through the unit you will be able to:

- * Identify the areas of conflict between Union and States
- * Analyse the causes behind the demand for autonomy and
- * sketch the changing perspectives on Union-State Relations

14.1 Introduction

A stage has been reached where Centre-State relations have to be analysed with a fresh look because of the merging stresses and strains. The constitutional framework of Union-State relationship worked reasonably well during the seventeen years period from 1950 to 1967. One-party government both at the Centre and the State has been the most important factor in the predominance of the Parliament. In the words of A.K.Chauda "One party government both at the centre and State has facilitated and even encouraged Parliament to consider itself as the apex of a legislative and executive pyramid."

even during this period there were strains on federalism. Particularly when the Union Government set aside the constitutional machinery in a State and imposed President's Rule under Act.356. This was done in East Punjab in 1951; in Andhra on 15th November, 1954, and in Travancore-Cochin in 1956.

The major criticism of such a move on the part of the centre was that the opposition parties were not given an opportunity to form an alternative government.

It was also felt that the Congress party was not willing to tolerate a non-Congress government in any State. The role of the governors during this period was subjected to a lot of criticism. Allegations were made that the governors were not impartial in discharging their duties.

During this period the Congress party emerged as the principal political force with an outstanding majority of seats at the centre and in most of the States. The Congress continued to rule at the Centre and in all the State except in Kerala till 1967.

The Centre-State relations during this period were governed largely by Nehru's charismatic personality and as seen earlier, the role played by the Congress party.

Nehru and his Ministers have never hesitated to make indirect and sometimes even direct moves in setting and deciding issues which are constitutionally the responsibility of the State. The dividing line between the high command and the ministers was so thin that, even the limited constitutional authority, which the state enjoyed, appeared to have been surrendered to it.

Another interesting aspect of Nehru was that he worked through institutions like the congress working committee, the Congress Parliamentary Board, the Planning Commission and the National Development Council. This further centralized the Indian political system.

The death of Nehru, saw a new phase in the Centre-State relations. Since none could command that amount of respect and hold, the affairs of the party and the governments at the centre and states passed into the hands of a group of leaders, that in time to come, were known as the "Syndicate."

14.2 Breakdown of uni-party system

Prior to the Fourth General elections of 1967, a turning point in Indian political development, the conditions prevailing during the period 1962-66 speeded up the process of weakening the one-party dominance of the congress. The period saw two wars, one with China and another with Pakistan, deaths of Nehru and Sri Lal Bahadur Shastri, succession war within congress party, severe droughts and acute economic crisis- all these factors had an impact on the Congress party.

The fourth General election of 1967 was the beginning of a new era, the question of accountability came up and in the process the Congress party lost its majority. The party was ceased out of power in eight States, and majority in the Parliament was reduced from 75 per cent of seats to an all time low of 54%.

In the elections the Congress lost power in Madras where a single party, the D.M.K. came to power. Subsequently, defections from the Congress took place in more states and the United front governments came to power. These States were Haryana, Uttar Pradesh and Madhya Pradesh.

The 1967 election was the most significant event in Indian politics. Many considered the end of one-party dominance as an established fact, whereas others supposed such a view to be "a hasty generalisation. Whatever may be the debate the fact is, as seen earlier, the election results broke up the power structure resulting in an end to twenty years of one-party rule.

The new political climate provided a new phase where non-congress parties came together and formed straight away alternative coalition governments.

Before we analyse the demand for more autonomy, a review of the new political development in terms of coalition politics will give us the necessary perspective to assess the new trends in the Centre-State relations.

14.3 The Phase of coalition Politics 1967 - 72

The phase of politics of the United Front between 1967 and 1972 was considered as a significant political development in India. The varied nature of coalitions revealed a number of phases.

i) The phase of anti-congress, non-sociological coalitional politics (The phase was present in the State of Bihar, Haryana, Madhya Pradesh, Punjab and U.P. during the functioning of the first United Front governments there).

ii) The phase of anti-congress ideological coalitional politics. The States of Kerala, Orissa, West Bengal witness this phase during the formation of their coalition governments.

iii) The phase of anti-congress coalitional politics. (The phase represents the period when minority governments supported by the congress were being experimented in Bihar, Punjab, and W. Bengal).

iv) The phase of anti-congress programmatic coalitional politics. (The phase was marked by its presence when the United Front governments functioned in west Bengal and Punjab after the mid-term poll of 1969 on the basis of pre-election programme).

v) The phase of opportunistic coalition politics. (The period of the functioning of all coalition governments after Mid-term poll in Bihar, in Orissa, in Punjab, in W.Bengal).

The above phase shows the varied nature of coalition governments. The fourth general elections brought a phase of instability into the political process. The following Tables give us the changing picture of coalitional politics.

Check Your Progress - 1

State any Two phases of coalition politics

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See page 14.3

TABLE I

The stability pattern of coalition governments between 1967 - 72.

States.	No. Governments	Average Life in Months
Bihar	9	4.7
U.P.	4	7.8
Haryana	3	3.2
M.P.	3	8.3
West Bengal	3	8.9
Punjab	3	10.8
Kerala	2	20.5
Orissa	1	45.9

*. Sources: Iqbal Narain, Twilight or Dawn: The political change in India. 1967-1971.

Factionalism and large-scale defections created instability. This, to a large extent, created an atmosphere conducive to centre-state confrontation.

14.4 Confrontation with the Centre

A confrontation between the State and the Centre arose during 1967-1970s. Specific allegations were levelled by States like Kerala, West Bengal, Karnataka, Bihar, Orissa and Rajasthan. Let us, in brief study the allegations and demands of the three state governments. The C.P.I. Marxist government of Nambudripad complained that the centre was not supplying foodgrains to Kerala. In fact the State Government threatened to make arrangements on its own with China. A demand was also made for the sharing of foreign exchange. Relations between W.Bengal and the Centre were strained in 1969, when the United Front Ministry headed by Ajoy Mukherjee called for recalling the Governor. The Governor had omitted two paragraphs of the speech prepared by the Chief Minister. In fact the Chief Minister asserted that the future Governor should be appointed only after consultation with the State Government. The Punjab Government accused the centre of 'political dishonesty' in respect of democratic "Punjab Subha". In 1970, the Karnataka State Government said that the centre was humiliating the non-congress

governments. In the case of Bihar the confrontation almost took an ugly turn when a big power like USSR was sought to be involved. The Chief Minister of Bihar appealed to the USSR to come to the State's rescue to solve the famine situation there. Meanwhile, the U.P. Government confronted the centre for not responding to the problems of U.P. The State Government demanded the allocation of Plan grants on the basis of population. Orissa and Rajasthan State governments complained that the centre was insensitive to their legitimate demands.

14.5 Demand for autonomy

Assuming the role of the champion of the interests of the non-Brahmin communities in Tamilnadu, the D.M.K. unified these elements under the banner of Tamil linguistic and cultural nationalism and made them conscious of their being dominated and suppressed for long by the Aryan North Indian Brahmins. This led to a powerful intellectual movement for autonomy in the Dravidian South, mainly in the old Madras State. A serious threat to the nation's integrity was seen when in 1960 the DMK and then Nam Tamil (We Tamils) organised a joint campaign throughout the Madras state for separation of Madras from India and for making it an independent sovereign State for separation of Madras from India and for making it an independent sovereign State of Tamilnadu. Later, the DMK proposed that the State of Madras, Andhra Pradesh, Kerala and Mysore should leave the Indian Union and form an independent 'Republic of Dravidnad'. The 1962 elections softened the militant character of the DMK. It shed its extra-parliamentary character and decided to win power through the ballot box.

Following the increased separatist sentiment, and on the recommendations of the committee on National Integration and Regionalism of the National Integration Council, the Indian Parliament unanimously amended the Indian constitution to prevent the divisive tendencies and to preserve the unity, sovereignty and territorial integrity of the Indian Union.

In consequence of this enactment, the DMK, on 3rd Nov. 1963, dropped from its programme the demand for a sovereign independent dravidian Federation (dravidanad) and its separation from the Indian Union. The party changed its approach by favouring a Dravida Union of Madras, Mysore, Andhra Pradesh and Kerala with as large powers as possible within the framework of the sovereignty and integrity of India and the constitution.

14.6 Call for state autonomy

In 1970 the DMK called for state autonomy. The meeting criticized "Delhi's attitude" in trying to administer states subjects, holding the states as its debtors and using its financial strength to control them." The call for separation of Tamilnadu was once again given in 1971. The then Chief Minister Karunanidhi in 1971 threatened that separation of Tamilnadu from the Indian Union "would become unavoidable if the demand for state autonomy continued to be neglected for long. A separate flag was also demanded. The DMK time and again demanded autonomy of States. In 1975, the talk of convening an all-India convention to propagate the ideas of autonomy among a large number of states went round.

The DMK felt that under the existing constitutional framework the Central government neither respected the sentiments of the States nor appreciated their needs and problems. Hence for speedy growth of the State, maximum autonomy should be granted. In 1977 on the eve of Lok Sabha elections, the DMK reiterated its demand for autonomy and asserted that such a demand could be taken neither as an anti-national nor as separatist. AIDMK's coming to power in 1977 has not changed the thinking of the Dravidian movement.

Check Your Progress - 2

What are the reasons for demand for autonomy from states?

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see para 14.5

14.7 The Akali Dal in Punjab

The Akali Dal, a religious-regional political party in Punjab till 1962 made their demand for a sovereign state for Sikhs. This was so when Master Tara Singh was its undisputed leader.

The demand for a Punjab Subha was conceded by the centre. This did not satisfy all the Sikhs and the followers of Sant Fateh Singh brought out the idea of Sikh homeland. The Batala Resolution of 1968, and the Anandpur Sahib resolution in 1973 called for more powers to the States. There was serious thinking among the Akalis regarding decentralization of powers and granting of greater autonomy to the states. In 1975, they demanded that excepting subjects like external affairs, defence and communications all powers should be transferred to the State as demanded by Tamilnadu. Later the Mizos and Nagas in Assam demanded formation of independent sovereign States. However, subsequently the strong stand taken by the Centre stifled such demands.

14.8 Issues leading to confrontation between Union and states

During this period there were five main demands of the non-congress governments:

The first demand was regarding the position of the Governor. The Governors came into great prominence after 1967. The non-Congress governments felt that these powerful posts were being filled by the Union Government with leaders of the congress party who were defeated at the polls, and such persons exercising executive power in the States were only too willing to carry out the orders of the Centre. They also felt that the ruling party at the Centre was utilizing them to remove the United Front governments from power by introducing the President's rule.

The second issue is about financial allocations. The States were of the unanimous opinion that the Centre had not shared taxes with them in the true spirit of the constitution. finances were not being transferred from the Centre and the working of the Finance Commission, they felt was against the interests of the States. The bulk of the funds given by the Union to the States fell within the category of discretionary grants. These grants came on the recommendation of the Planning commission. The States felt that the policies and decisions of the Planning commission were the same as those of the Central government, and the former functioned almost as an agency of the latter.

The powers and scope of activity of the Planning Commission were so wide and extensive that they covered almost the entire field of the government.

Even the legislative activities of the State Governments relating to such subjects of the state list as agriculture education, health and cooperation passed into the hands of the Planning commission. for example, Land Reform Schemes of the State were examined by the Land reforms division of the Planning commission before a bill containing them could be introduced in the Legislature. Voices were raised that Planning commission had become another "super government" and that through financial control it had made the States servants of the Centre.

The third issue was that of the use of para-military forces like the Border Security force and the Central Reserve Police. Maintenance of law and order was under the constitution, a state subject, and the State governments took the view that the CRP and the BSF units should be used by the Centre only when asked by the State. Kerala and west Bengal States had a dispute with the Centre regarding the use of the above paramilitary forces.

At one stage the Union government was suggesting the transfer of law and order to concurrent list so that the State Governments might not raise objection against the use of CRP units.

The forty second Constitutional amendment act gave powers to the Central government to use not only CRP and BSF units but also the armed forces in any State in aid of the Civil powers.

The fourth issue that led to confrontation was that of the Centre's monopoly in controlling industries, trade and commerce, production and distribution of goods. Taking advantage of the constitutional provisions that parliament could regulate them in national interest the centre had brought them almost under its own control. The subject of entries 24,26,27 were no longer State subjects and became for all practical purpose union subjects. The fifth issue was that the State felt that the Union government was encroaching upon their autonomy even in respect of those subjects that had been included in the State Legislative list.

The Tamil Nadu Government urged the Centre in 1971 to amend the constitution to seek more autonomy. The non-Congress governments in States considered the weakening of the Central authority though constitutional amendments as one of the devices or strategies to strengthen their own power and influence.

The post-Fourth General Elections witnessed a number of debates at various levels regarding Centre-State relations. the Bar Association of India, in a Seminar in 1967 maintained that the powers and duties of the President and the Governors in regard to the suspension of a state government in case of the break-down of the constitutional machinery needed fuller investigation; that the Planning Commission should be an independent autonomous body and not merely a wing of the Central government as at present; and that the finance commission should be a permanent body and its scope should be wide enough to deal not only with statutory grants but also with discretionary grants. Dr.A.Appadorai argued in favour of the setting up of an inter-State council in order to avoid Centre-State conflicts.

14.9 Review of Centre-State relations

So far, the Centre-State relations were reviewed only once at the national level. This was in 1969 by the Administrative Reforms Commission. The Commission recommended the expansion of provincial autonomy and therefore, talked of the delegation of more financial and administrative functions and power to the States. The Commission however, felt that no constitutional amendment is necessary for ensuring proper and harmonious relations between Centre and the States, in as much as the provisions of the constitution governing Centre-State relations are adequate for the purpose of dealing with any situation or resolving any problems that may arise in this field.

The Commission also (recommended) made the following important recommendations:

1. The Finance Commission may be asked to make recommendations on the principles which should govern the distribution of Plan grants to the States.
2. The application of the principles governing the distribution of Plan grants from year to year will be left to the Planning Commission.
3. An inter-State council should be constituted under Art.263 of the constitution.
4. The use of naval, military or air forces or any other armed forces of the Union in aid of civil power can be made either at the instance of the State Government or by the Centre.
5. Power should be delegated to the maximum extent to the States, with regard to their work on projects in which the Centre is duly interested or which are carried out by them as agents to the Central Government.
6. The convention of consulting the Chief Minister before appointing a Governor is a healthy one and may continue.
7. Guidelines on the manner in which discretionary powers shall be exercised by the Governors should be formulated.

14.10 Rajamannar Committee

The three-man committee appointed by the Government of Tamilnadu headed by Shri P.V.Rajamannar, a retired Chief Justice of the Madras High Court and the Chairman of the Fourth Finance Commission, presented its report to the Chief Minister of Tamilnadu on May 27, 1971. Dr A.Lakshamana Swami

Mudaliar and Shri P.Chandra Reddy (Former Chief Justice of Madras High Court) were the other members. The Rajamannar Committee, while accepting the fact that the constitution was no doubt a federal one, contended that it had several provisions which are inconsistent with the principles of federalism and there have been unitary trends in the allocation of powers with a strong bias to and tilting the scales in favour of the Centre. Some important recommendations of the committee were:

1. Appointment of a high-power commission for a re-distribution of the entire lists.
2. The residuary powers of legislation and taxation should be vested in the State legislatures.
3. The corporation tax, customs including export duties and tax on capital value of assets should be shared by the Centre and the States.
4. The Central grants to the states for plan and non-plan expenditure should be purely on the recommendations of an independent statutory body where recommendations should be made binding on the Centre as well as the States.
5. Abolition of the existing Planning Commission.
6. Art.312 should be amended so as to omit the provision for the creation of any new All India Cadre in future.
7. Every state should have equal representation in the Rajya Sabha irrespective of its population.
8. The territorial integrity of a State should not be interfered with in any manner except with the consent of the State concerned.
9. Immediate establishment of Inter-State Council provided under the Act.263.

The Central Government rejected the committee's recommendations.

14.11 The Fifth General Elections for State Assemblies and Centre-State Relations

The 1971 mid term elections saw Mrs. Gandhi's party winning a comfortable majority in the Parliament. This victory enhanced her image and it was an opportune time for the Government to go in for the 1971 Assembly elections. The Congress party got majority of seats in Andhra Pradesh, Maharashtra, Karnataka, Gujarat, Himachal Pradesh, Bihar, Haryana, Punjab, Madhya Pradesh, Rajasthan, Assam, West Bengal, Jammu and Kashmir and Tripura. There were no elections in the other five States - Nagaland, Kerala, Orissa, Tamilnadu and Uttar Pradesh.

This period witnessed intense groupism within the Congress party in various States. This resulted in the constant intervention of the High Command which had an impact on the States politics. The country-wide predominance of the Congress party provided the Central leadership an easy method to extend its tight grip over the States. This resulted in a total subservience of the States. The leaders of the Opposition demanded more autonomy to States, Tamilnadu leaders consistently agitated for more and more autonomy for States.

The 1975 Emergency brought the State governments under greater control, and later became almost vassals of the Centre. In 1976 the Assembly of Tamilnadu was dissolved, and the State Administration was taken over by the President under Art.356.

14.12 Centre-State Relations - Janata Period

The emergence of the Janata Party to power at the Centre disturbed the Centre-State relations. The Union Government wrote to the Chief Ministers of Punjab, Haryana, Himachal Pradesh, Uttar Pradesh, Bihar, West Bengal, Orissa, Madhya Pradesh and Rajasthan to advise their respective Governors to dissolve the Assemblies. Reference was made to Art.355 of the Constitution which cast upon the Union Government the duty to ensure that the government in the States was carried on in accordance with the Constitution. It was contended that a government should remain in office only so long as it had enjoyed the confidence of the Centre and not because it enjoyed the confidence of the State Assembly.

The second reason given was that there was near paralysis of normal functioning of governments in the nine States of northern India.

The third argument was that with the exception of U.P. and Orissa, they had already completed their legal term of five years, and they were functioning on borrowed time "for their term was extended by the Forty Second Amendment."

The State governments refused to comply with the Union Government's letter. Fearing the intervention of the Centre, nine State governments filed suits before the Supreme Court and prayed for injunctions restraining the Union Government to do so. The Supreme Court rejected the appeal of the States. The above judgement underscores the doctrine of federal paramountcy.

Under Art.356 the acting President B.D.Jetti dissolved the nine State Assemblies, and the States had come under the President's Rule. The Congress party considered this move of the Janata government as a "blow to the federal and democratic structure" of the country.

In the elections, that followed the Janata party secured more than two thirds majority in seven out the ten States and in one of the two Union Territories. Further after the Lok-Sabha elections of 1980 as Haqqi puts it "there was a reversal of fortunes and of roles after the polls. The Congress (I) was returned with a thumping majority while the Janata Party cut a sorry figure in the same nine northern States, and the doctrine of the federal mandate was triumphantly flaunted against the erstwhile proponents; the plaintiffs became the defendants highlighting once again the necessity of a political solution to or consensus in regard to Central intervention under Article.356".

14.13 West Bengal and the Centre

In 1977, a Memorandum on Centre-State relations was adopted by the West Bengal Cabinet at its meetings held on December 1, 1977. The Memorandum pointed out how the Centre had made encroachments on the powers of States since independence. The following important issues were brought out:

1. The State list of the Constitution has been sought to be reduced to a farce.
2. During the years, Centre's tentacles have further spread to the States even in the sphere of law and order which is normally a State subject, through creation of the Central Police, the Border Security Forces, the Industrial Security Forces etc.

The emergency had enormously increased the powers of the Centre.

3. The Memorandum says that we are definitely for strong states but on no account do we want a weak Centre. The concept of a strong states is not necessarily a contradiction to that of a strong Centre, once their respective spheres of authority are clearly marked out. The Preamble to the Constitution should be amended to include the word 'federal' in the description of the Republic of India, consequential changes should also be made replacing the word 'Union' by the expression 'Federation' in all places.

4. To protect states autonomy residual powers of the federation should lie with the units and not with the centre.

Article 249 which gives powers to Parliament to legislate on a subject in the State list under the plea of national interest should be deleted.

5. The role of Centre should be one of co-ordination.

6. Art.356 and 357 which enables the President to dissolve a State Government or its Assembly or both should be deleted.

7. All India services like I.A.S., I.P.S. etc. whose Officers are posted to the States, but under the supervision and disciplinary control of the Central Government, must be abolished.

8. The Articles regarding the Finance Commission and the distribution of revenues should be amended to provide 75 p.c. of the total revenue raised by the Centre from all sources of allocation to different States by the Finance Commission.

The above Memorandum in spite of political overtones has done an excellent job of pointing out the over-centralised provisions in constitution in regard to the concurrent list, taxing powers, industrial and economic development etc.

14.14 The Recent Trends

The 1983 election, the victory of Telugu Desam in Andhra Pradesh and Kranti Ranga-Janata alliance in Karnataka has proved their regional electoral base. Besides, their success raises the question of a greater quantum of autonomy within the framework of India. A new political situation has arisen. More regional demands will be placed on the system. They are bound to be more assertive in their relations with the Centre.

Organising a common forum for non-Congress(I) State Governments for necessary changes in the framework of India's federation, the governments of Andhra Pradesh and Karnataka took the necessary initiative and in March 1983 four Southern Chief Ministers of Tamilnadu, Andhra Pradesh, Pondicherry and Karnataka met in Bangalore and formed the said forum for discussing their common problems and for seeking drastic changes in Centre-State relations.

"The conclave of the Chief Ministers of the Southern States was intended to promote the concept of cooperative federation between the States and the Centre. A strong Centre they said, is as necessary as strong states. They wanted a Fiscal commission, with adequate representation for the States and statutory powers to review Centre-State fiscal relations in the light of the experience of the States over the last thirty-five years. The Commission, they emphasised, should recommend amendments to the Constitution and enactments for a more equitable distribution of resources between the Centre and the States.

The conference sought the re-examination of administrative relations under Art.256 and 257 also recommended the redrafting of the Seventh Schedule to the constitution. The State legislatures should have the powers to enact laws in State List and the Concurrent list (when States are first to legislate on the Subject), without the need to get the President's assent.

14.15 Sarkaria Commission

The Bangalore meet of the Southern Chief Ministers was significant. The Union Government had immediately appointed the Sarkaria Commission to review the Centre-State relations. In spite of the formation of the Sarkaria Commission the non-Congress(I) governments have become more vocal and even hostile in their demands especially in regard to finances. The Bangalore conclave gave an impetus to non-Congress leaders and Chief Ministers to articulate the claim of the States. The subsequent Vijayawada conclave emphasised the need to form a common front against the Centre.

14.16 Summing up

The rise of the regional parties and the power alignments of other regional forces do not augur well for a developing federal state like India. The relevance of a strong Centre is the need of the hour, if only to prevent the breaking up of the country into pieces. Today, States of Tamilnadu, Andhra Pradesh and Jammu and Kashmir are being ruled by regional parties, while the governments of Tripura, West Bengal and Karnataka are led by Opposition parties which also subscribe to the regional autonomy. The Akalis demand, and the sad spectacle of the Assam situation are posing a threat to nation's integrity, getting support from national parties other than Congress-I. These developments may bring about the disintegration of a federal state. In this context, a strong Centre can provide a strong and viable federal state.

14.17 Suggested Readings

1. Babulal Fadia : State Politics in India.
2. Iqbal Narain : State Politics in India.

14.18 Model Questions

I. Answer the following Questions in about 30 lines

1. Examine the Centre-State Relations during the 1950 to 1967 period which was known as one-party government?
2. Discuss the impact of the break-down of uni-party system on Centre-State Relations.
3. Discuss the phase of Coalition - politics during 1967-1977.
4. Examine the recommendations of Rajamannar Committee Report on Centre-State Relations.

II. Answer the following Questions in about 10 lines

1. Discuss the DMK's demand for autonomy in Madras State?
2. Examine the Centre-State Relations during the phase of coalition politics during 1967-1972.
3. What are the important recommendation of the Administrative Reforms Commission report?
4. Discuss the Centre-State Relations during the Janata Rule?

Prof.F.D.Vakil

Block - III : JUDICIARY

Unit -15 Organisation of the Judiciary

Contents

- 15.0 Objectives
- 15.1 Introduction
- 15.2 Nature of Judiciary in India
- 15.3 Supreme Court
- 15.4 Appointment, Qualifications, Term and Removal of Judges.
- 15.5 Privilege of Judges
- 15.6 Practices and procedures of the court
- 15.7 Power of Supreme Court
- 15.8 Summing Up
- 15.9 Suggested Readings
- 15.9 Model Questions

15.0 Objectives

After going through this unit you will be able to

- * Analyse the nature of Indian Judiciary and
- * Discuss about its independent role in the system.

15.1 Introduction

This unit deals with the organisation and functions of the Supreme Court, and discuss how far the Indian judiciary is independent and impartial.

15.2 Nature of Judiciary in India

The members of the Constituent Assembly brought to the judicial provisions, an idealism equalled only by that shown towards the Fundamental Rights. Judiciary was seen as an extension of the Rights since it is the courts that ensure the life of the rights. In Independent India, the Judiciary is to play an important role in bringing equality of treatment and rule of law which were denied to the people during the colonial regime.

The Judiciary was idealised because, as the guardian of the Constitution, it would express and interpret the new law created by the Indians for the Indians.

Two important issues were given much thought in the Constituent Assembly. They were, firstly to secure the independence of the judiciary; and secondly, the power and functions of the Supreme Court together with the Judicial Review. If the Judiciary had to remain strong the courts must be above reproach, free from coercion and political influence. The framers of the Constitution sought to strengthen the independence of the Judiciary within the constitutional provisions.

In a federal set up the need for an independent judiciary is always felt. The Judiciary is considered to be the custodian of the Constitution and is responsible for protecting the rights of the citizens. It is the watch dog of democracy. The Judiciary, in a federal state decides all the disputes which might arise between the centre and the federating units, so that the federal structure is not put under heavy strain. It interprets the Constitution keeping in view both the letter and spirit of the Constitution. In order to discharge its function without prejudice, impartiality of the judiciary is always maintained.

With a view to ensure that the executive and legislature do not exceed the power vested in them by the Constitution, the courts are given the power of Judicial review.

The Indian Constitution did not provide for a dual set of courts. The constitution provided a single integrated system of courts with the Supreme Court at the apex. These Courts administer both the Union and State laws. The Indian judiciary is hierarchically organised. Appeals can be referred from the lowest court to the highest court. The Supreme Court has jurisdiction over the entire country. It can judge the constitutionality of the laws passed by both Parliament and State Legislatures. The State High Courts which function at the State level can also test the constitutionality of the Executive orders and Legislative enactments. Both the Supreme Court and High Courts have writ jurisdiction. The judges of the High Court and the Supreme Court are appointed by the President of India and are removed by him on the basis of a resolution passed to that effect by Parliament. The Supreme Court is the Court of Record. Its decisions are binding on all courts within the territory of India. Similarly the decisions of the High Courts can be cited as precedents in all other courts. The High Courts exercise supervisory powers over the subordinate courts. Though the subordinate courts at the district level are under the authority of the State Governments, they are not precluded from hearing and deciding the cases that arise under Union laws. Conversely, it is within the powers of the Supreme Court to grant leave to appeal from the judgement, decree, sentence, or order of any tribunal. The organisation, including the jurisdiction of the High Court, is a subject of the Union Government. The Parliament can enlarge the jurisdiction of the High Courts. It alone can enhance the age of retirement of the judges. Thus these provisions indicate that although India is a federal country, the Constitution gave her a unified judiciary and one system of fundamental law.

15.3 Supreme Court

Since India adopted a federal polity, and guaranteed fundamental rights, it necessitated an independent and impartial judiciary. The Constitution has thus created a body in Supreme Court which is empowered to act as the interpreter and guardian of the constitutional provisions.

At the apex of the judicial hierarchy of the country stands the Supreme Court. It was constituted in 1950 by raising the status of the then Federal court set up under the Government of India's Act, 1935. Additional jurisdiction was also conferred on it and India's judicial links with the Privy Council of England were terminated. Thus, the Supreme Court with its enlarged jurisdiction, obtained powers to deal with civil and criminal appeals. Article 138 states that the Supreme Court shall have such further jurisdiction and powers with respect to any matter of the Union List as the Parliament may, by law, confer. The Supreme Court shall have such further jurisdiction and powers with respect to any matter as Government of India and the Government of any State may by special agreement confer, and the parliament may by law, provide for the exercise of such jurisdiction and powers by the Supreme Court.

15.4 Appointment, Qualifications, Tenure And Removal of Judges

The Supreme Court of India consists of 17 judges and a Chief Justice. It is provided that these judges including the Chief Justice shall be appointed by the President after consulting the judges of the Supreme Court and the High Court as he may deem necessary. However, in the case of the appointment of a Judge other than the Chief Justice, the Chief Justice shall always be consulted. The President may appoint some adhoc judges at the request of the Chief Justice. Only a working judge of some High Court or a retired judge of the Supreme Court can be appointed on an adhoc basis.

A judge may resign his office by writing a resignation in his own hand, addressed to the President, and he may be removed from office by an order of the President. However, the President shall not pass an order of removal unless an address by each House of Parliament, supported by a majority of the total membership of that House, and by a majority of not less than two-thirds of the members

of that House present and voting has been presented to him in the same session for such removal on the ground of proved misbehavior or incapacity. The procedure for the investigation and proof of the misbehaviour or incapacity of a judge is to be regulated by a law made by Parliament. As regards the qualifications of the judges of the Supreme Court it is laid down that a person can be appointed as a judge of the supreme Court if he.

- a) is a citizen of India and
- b) has worked as a Judge in some High Court for a period of not less than five years or
- c) has worked as an advocate in some High Court for a period of not less than 10 years or
- d) is in the view of the President distinguished jurist of the country.

The Constitution says that the judges of the Supreme Court shall retire on attaining the age of 65 years.

15.5 Privileges of Judges

The privileges allowances and rights in respect of leave of absence and pensions of the judges are to be determined by a law made by Parliament and shall not be varied to his disadvantage after his appointment. A person who has held office as a judge of the Supreme Court is debarred from pleading or acting in any court or before any authority within the territory of India.

15.6 Practices and Procedures of the Court

Subject to a law made by Parliament, the Supreme Court may, from time to time, with the approval of the President, make rules for regulating generally the practice and procedure of the court. These rules may fix the minimum number of judges who are to sit for any purpose and may provide for single judges and Division Benches. However, the minimum number of judges who are to sit for the purpose of deciding any case involving a substantial question of law about the interpretation of the Constitution, or for the purpose of hearing a reference for advice made by the president, shall be five.

All judgements and opinions of the Supreme Court are to be delivered only with the concurrence of a majority of the judges present at the hearing of the case. A judge who does not concur with the majority opinion is entitled to deliver a dissenting judgement or opinion.

The administrative expenses of the Supreme Court shall be charged upon the Consolidated Fund of India and will not be subjected to vote in Parliament. The fee and other money taken by the Supreme Court shall form part of the Consolidated Fund of India.

15.7 Powers of Supreme Court

Broadly speaking, the powers of the Supreme Court are of three kinds. It serves: (1) as a federal court, (2) as a court of Appeal, and (3) as a guardian of the Constitution. Article 131 of the Constitution vests the Supreme Court with original and exclusive jurisdiction to determine justiciable disputes between the Union and States comprising the Union as well as between the States. As a court of appeal, the Supreme Court is the final appellate tribunal of the land.

There can be two types of cases - Criminal (in which some criminal activities are involved) and Civil (in which there may be disputes regarding property etc). The appellate jurisdiction of the Supreme Court may be further divided under three heads. (1) cases involving interpretation of the Constitution, civil, criminal or otherwise; (2) civil cases irrespective of any constitutional question (3) criminal cases irrespective of constitutional questions. Appeals can be made to the Supreme Court only by special leave of that court but if particular case involves a substantive question of law as to the interpretation of the constitutional question, an appeal can be made to the Supreme Court if the High

Court concerned has certified that such a question is involved. The Supreme Court can, however, take up the case even if the High Court has refused to grant such a certificate, if it is satisfied that a substantive question of law as to the interpretation of the constitution is involved in the case.

In all other cases where constitutional questions are not involved, an appeal can be made to the Supreme Court only if the High Court has certified that (a) the case involves a substantive question of law and (b) in the opinion of the High Court the said question should be decided by the Supreme Court. So far as the criminal cases are concerned, there was no provision before India became independent for any appeal to be made against the decisions of a High Court. Under the Indian Constitution, however, an appeal can be made to the Supreme Court from any judgement final, order or sentence in a criminal proceeding of the High Court, as of right into specified classes of cases, (a) In case the High Court, has, an appeal against the decision of a lower Court, reversed an order of acquittal of an accused person and sentenced him to death or (b) in case the High Court has withdrawn, for trial, any case from any court subordinate to its authority and has, in such trial convicted an accused and sentenced him to death. These two exceptions make it very clear that in cases relating to a sentence of death by the High Court, an appeal can always be made to the Supreme Court. In other criminal cases, where a sentence of death is not involved, an appeal can be made to the Supreme Court only on the basis of the High Court certifying that the case is a fit one for appeal to the Supreme Court. It is, of course, assumed that the High Court would not issue such a certificate unless it was convinced that some substantive question of law or some matter of great public importance or the infringement of some essential principle of justice were involved.

An appeal can always be made to the Supreme Court in a criminal proceeding if the High Court has certified that the case involves a substantial question of law as to the interpretation of the Constitution. Barring the above cases, no appeal can be made in criminal proceedings of the High Court to the Supreme Court. But, Parliament has the right to make laws if it so desires conferring on the Supreme Court further powers to hear appeals in criminal matters. The Supreme Court, however, has been vested by the Constitution with powers to interfere in the decisions not only of the High Court but also of any other court or tribunal within the territory of India. Notwithstanding anything in the Chapter, says Article 131 (1) "the Supreme Court may, in its discretion, grant special leave to appeal from any judgement decree, determination, sentence or order in any case or matter or passed or made by any court or a tribunal in the territory of India." These are, indeed, wide powers. The Supreme Court, under these powers can entertain and hear appeals by granting special leave against any kind of judgement or order made by any court or tribunal in any proceedings. The exercise of this power is left entirely to the discretion of the Supreme Court. No restrictions can be binding on the Supreme Court so far as these powers are opinion given by the Supreme Court in such cases is not binding upon the Government and cannot be treated as a judgement of the Supreme Court. It is only advisory and it is for the government to see how far it is guided in its decisions by such an opinion.

The law declared by the Supreme Court shall be binding on all courts within the territory of India and the decisions of the Supreme Court are made authoritative. All courts within the territory of India must take judicial notice of such decisions. However, there is nothing in the constitution which prevents the Supreme Court from departing from its previous decision if the court is convinced of its error and its beneficial effect on the general interest of the public or its inconsistency with the legal philosophy of the Constitution. As stated earlier, to discharge their duties honestly and impartially, it is essential that the judges of the Supreme Court must be independent of all possible interference. The following provisions of the Constitution ensure the independence of the judges.

- a) Method of appointment and removal of judges.
- b) Qualifications for the appointment of the judges.
- c) Service conditions shall not be altered to the disadvantage of the judges while they are in office.
- d) The expenditure on the establishment of the Supreme Court is not subject to vote in Parliament.
- e) Prohibition of judges from practicing law after their retirement.
- f) The right to punish for its contempt.

Though all the above mentioned provisions ensure the independence and impartiality of the judges, there are certain practices that have evolved in course of time which may affect the independence of the judiciary.

- a) The provision for the appointment of adhoc judges who are later confirmed.
- b) The very method of appointment.
- c) Disregard of the principle of seniority while appointing the Chief Justice.
- d) Transfer of judges in the case of High Courts, and
- e) Inducement of re-employment after retirement.

are some of the provisions which may tempt judges to act in a manner which is detrimental to the administration of justice.

15.8 Summing Up

In independent India, the Judiciary is expected to play an important role in bringing equality of treatment and Rule of Law. It is also regarded as the guardian of the constitution. Constitution provided only one set of courts for federal and provincial governments of Indian Union. The Supreme Court is the highest court of appeal, interpreter and the guardian of the Constitutional provisions. It has been provided with an Advisory jurisdiction for the cases referred to it by the President. The independence of the Judiciary is well protected by various provisions and conventions.

15.9 Suggested Readings

1. J.C.Johari : Constitution of India
2. Norman D.Palmer : The Indian Political System

15.10 Model Questions

I. Answer the following questions in about 30 lines

1. Explain the importance of an Independent Judiciary in a federal set up.
2. Describe the powers of the Supreme Court.
3. Describe the role of Supreme court in protecting the Fundamental Rights.

II. Answer the following questions in about 10 lines

1. Examine the appellate jurisdiction of the Supreme Court.
2. Describe the qualifications and tenure of the Judges of the Supreme Court.
3. Explain the procedure for the removal of the judges.

- Dr. M.Ramchander

Unit-16 : Judicial Review

Contents

- 16.0 Objectives
- 16.1 Introduction
- 16.2 Origin of the Doctrine of Judicial Review
- 16.3 Judicial Review in India
- 16.4 Judicial Review in USSR; U.K.; Switzerland
- 16.5 Maxims of Judicial Review
- 16.6 Conflicts between the legislature and the Judiciary
- 16.7 42nd Amendment Act and Judiciary
- 16.8 43rd and 44th Amendment Acts and Judiciary
- 16.9 Summing Up
- 16.10 Suggested Readings
- 16.11 Model Questions

16.0 Objectives

After going through this unit you will be able to explain :

- * The origin and meaning of the Judicial Review;
- * The role of the Judiciary in interpreting the Constitution;
- * The conflicts between the judiciary and the legislature; and
- * The changes brought about by 42nd, 43rd and the 44th amendments.

16.1 Introduction

This unit deals with Judicial Review. Judicial Review may be defined as the power of a Court to hold unconstitutional any law or official action while it deems to be in conflict with the basic or Constitutional law. It means the power of any Court to hold unconstitutional and hence unenforceable by law, any official action based upon it and any action by a public official which it deems to be in conflict with the basic law. According to Chief Justice Marshall, the father of the doctrine, it is emphatically the province and the duty of the Judicial Department to say what the law is. If, then, the Courts are to regard the constitution as being superior to any ordinary act of the Legislature, the Constitution and not such ordinary act must govern the case to which they both apply. Judicial Review is a creation of the American Supreme Court. In America the most important responsibility of the Supreme Court is to interpret the Constitution. In carrying out that high duty the Court may find it necessary to nullify State statutes or even acts of the Congress as violative of the Constitution.

16.2 Origin of the Doctrine of Judicial Review

The basic theory on which the American practice of Judicial Review is based may be summarised as follows. The written Constitution is a superior law, subject to change only by an extraordinary legislative process involving both the Congress and the States, and is as such superior to the Common and Statutory law. The powers of the several Departments of the Government are limited by the terms of the Constitution. The judges are expected to enforce the provisions of the Constitution as the higher law and to refuse to give effect to any legislative act or executive order which is in conflict with the provisions of the Constitution.

Now the curious thing is that there is no mention of this in the Constitution of America itself. The immediate source of the doctrine is the decision of Chief Justice Marshall in the case of Marbury Vs

Madison. The facts of this case are simple. Marbury had been appointed a Justice of Peace for the District of Columbia by President Adams just before he went out of office in 1801. His commission was signed and sealed, but the Federalist Secretary of State who was none other than Marshall himself failed to deliver it on March 3, and Jefferson on assuming office instructed Madison not to deliver it. Marbury filed a petition for a Writ of Mandamus to compel Madison to deliver the commission. He filed it in the Supreme Court directly without any prior court proceedings, thus invoking the Court's original jurisdiction under the Judiciary Act of 1789.

The Supreme Court could grant Marbury's petition or deny it. At first glance it seemed that the Court was bound to lose the contest for power and prestige whatever it might do. If the writ was issued, Madison with Jefferson's support would refuse to obey it, and the court would have no practical means of compelling him to obey its order. If the court refused relief to Marbury, it would be admitting officially that it lacked the authority to control the executive. In either case, the Judiciary and the Federalists would be humiliated and the triumph of Jefferson and the Democrats would be complete and obvious.

Marshall's decision was a masterly stroke. He ruled that the Judiciary Act of 1789 in authorising the Supreme Court to grant writs of mandamus in its original jurisdiction had unconstitutionally extended the court's original jurisdiction beyond that provided for in the Constitution. The court consequently declined to issue the writ, leaving Madison and Jefferson with nothing to defy or resist. But the writ was refused not because the Court lacked power to give relief against executive officers, but because the Court, asserted and exercised the much greater power of giving a ruling on the constitutionality of an act of the Congress.

16.3 Judicial Review in India

Though the framers of the Constitution had not specifically provided for this power, such evidence as there is of contemporary opinion and practice tends to support Marshall. Though Marshall cited no precedent, the State courts had already found occasion to strike down state statutes on the ground that they were in violation of State Constitutions. Even the Democrats did not voice any strong objections to the Doctrine at the time. This passing on the constitutionality of the acts of the Judiciary seems to have been pretty well accepted in 1803 and firmly established to-day.

The first recommendation of the adhoc Committee of the Constituent Assembly on the Judiciary was to bestow the power of judicial review upon the Supreme Court. A Supreme Court with jurisdiction to decide upon the constitutional validity of acts and laws can be regarded as a necessary implication of any federal scheme. The committee further felt that such power need not belong exclusively to the Supreme Court. K.M. Munshi believed that this power was especially necessary for the safeguarding of fundamental rights and for ensuring the observance of due process. He hoped that Judicial Review would have a more direct basis in the Constitution than simply due process.

The very incorporation of the fundamental rights in a Constitution make Judicial Review necessary. In other words, the fathers of the Indian Constitution preferred the American doctrine of limited government to the English doctrine of parliamentary sovereignty. The Supreme Court in India invalidated a number of statutes and administrative acts on the ground of the violation of the Fundamental Rights.

Judicial Review in India is not to be equated with the supremacy of the Supreme Court as in United States. Indian Constitution has succeeded in maintaining a fine balance between Judicial Review on the one side and Parliamentary supremacy on the other. The Supreme Court in United States has the power to invalidate a law duly passed by the legislature, not only on the ground that it exceeds the legislative powers vested in it by the constitution, but also on the ground that it is opposed to some general principles such as the due process of law. Whereas the Supreme Court in India has no right

to sit in judgement over the Parliament though it has the power to declare a law as void, if it is beyond the competence of the legislature to make such a law. As long as the Constitution exists, the Supreme Court has the last word in regard to the interpretation of the Constitution.

16.4 Judicial review in U.S.S.R., U.K. and Switzerland

It is imperative that in a federation, the Judiciary enjoys the power to judge the constitutionality of the acts executed by the Federal Legislature and the various State Legislatures. We find this power in the American Constitution. All the federations have not given the Supreme Court the power of Judicial Review. The Soviet Constitution did not confer this power on its Supreme Court. It does not possess the right to judge the constitutionality of the bills passed by the Supreme Soviet. There, the judiciary is sub ordinate to the Legislature.

In the Swiss Constitution, the Federal Tribunal has no right to nullify the Federal Acts passed by the Federal Assembly. It can nullify the Cantonal enactments if they are found to transgress either the Federal or Cantonal Constitutions. The Federal Tribunal does not possess the power of interpreting and protecting the Federal Constitution like the one possessed by the American and Indian judiciaries. The Federal Tribunal enjoys, what we call, partial judicial review only.

The British Judiciary does not sit in judgement over the constitutional validity of the Acts passed by the British Parliament. The Parliament is a supreme and sovereign body.

16.5 Maxims of Judicial Review

The exercise of the judicial review by the Indian and American Judiciary gave us an opportunity to lay down certain maxims of Judicial Review.

There should exist a definite case or controversy under the Constitution involving the protection or enforcement of rights, prevention or redressal of wrongs directly concerning the party or parties bringing the judicial suit who must have a focus stand in the case. The Court does not render advisory opinions. It will deal with the specific and particular issues alone. The party bringing the suit must be affected by the challenged Act. All other remedies must have been exhausted before coming to the Supreme Court. The question of fact, as distinct from a question of law, is not normally accepted as a proper basis for the exercise of Judicial Review. The Courts may review its Judgement. The courts are concerned with legal matters only. The courts always presume that the Act that is challenged is valid. It will not normally attribute motives to the law makers. The court may declare the entire act, or a part of it, void. If the court finds that it must hold a law unconstitutional it will usually try to confine the holding to that particular section of the Act, which was successfully challenged on constitutional grounds.

Art. 13 (2), 32(2) and 131 empowers the Supreme Court to protect the rights of the citizen, demarcate the jurisdiction of the Union, federate the states by interpreting the Constitution, and determine the powers of the law making bodies. Thus the scope of judicial review in India is confined to the examination of the constitutional validity of impugned law on two counts. (i) whether it falls within the competence of the authority that has framed it (ii) whether it is consistent with part III of the constitution.

In the exercise of the power of Judicial Review by the Indian Judiciary there emerged certain legal doctrines.

1. The doctrine of legislative competence, which means that the judiciary determines whether the impugned legislation falls within the jurisdiction of the powers of that law-making body or not. If not the legislations invalid on the ground of excess legislative powers.
2. The doctrine of severability, which means upholding that part of the questioned law which is not against the Constitution.

3. The doctrine of progressive interpretation which gives scope to the Judiciary to take the changing socio-economic and political situation while determining the legality of an enactment.
4. The doctrine of the spirit of the Constitution, which gives scope to the judiciary to determine the reasonableness of the restrictions that are placed on part III of the Constitution in a questioned enactment.
5. The doctrine of presumption in favour of the constitutionality says that the court always presumes that the impugned Act is valid unless otherwise proved beyond all doubt.

15.6 Conflicts between the Legislature and the Judiciary

In India, law can prevail only when it is consistent with the spirit of the Constitution as understood by the Judiciary. The Supreme Court alone has the final authority regarding the scope of the various provisions of the Constitution. The interpretation by it is final and cannot be questioned any where. A Constitution lives not only by the words written in it but also by the spirit which animates those words. The objectives proclaimed by the Constitution were two-fold, namely democracy and socialism. The rights of the individual are the essence of democracy. These rights are stated in Part III of the constitution. But the Indian democracy like the Western democracies was initially an elite democracy. The intellectuals and the more affluent classes were the leaders of democratic thought and action. The participation of the people was initially secured by giving them adult franchise. But such participation was restricted only to the periodical elections when the people could exercise their rights to elect the members of the legislatures. The Preamble of the Constitution reminded the people that it is they who have given the Constitution to themselves. Part-IV of the Constitution set out its objectives as being the uplift of the people and gradual transformation of the elite democracy into a mass democracy. The Indian Judiciary was trained in the British legal traditions and had known only elite democracy. The judges were recruited from the elite of the society. They were therefore influenced more by the spirit of liberal democracy than by that of socialism. In the first interpretation of the Constitution by the Supreme Court, the view that the fundamental rights would prevail over the Directive Principles, whenever the two came into conflict, was accepted most commonly. This sort of thinking continued till the later half of the nineteen sixties. In the Golaknath case (1967), the Supreme Court, in a majority decision, ruled that Part III of the Constitution is beyond the amending power of the Parliament. It upheld the Rights against social and economic justice which the preamble of the Constitution gave precedence to, over the liberties.

The friction between the Legislature and the Judiciary was visible whenever Parliament tried to give effect to the Directive principles (especially to the provisions which deal with social and economic equality). The Supreme Court struck down the order of the Madras Government providing reservation of seats for the Backward Classes in educational institutions in "the State of Madras Vs Champakam" stating that the decision was discrimination against a citizen on grounds of his caste. But the Supreme Court did not see the soundness of the Articles 37 and 46 of Chapter IV.

The durability of judicial decision depends on its general acceptance by the people. The overwhelming majority of the Indian population consists of backward classes. The Constitution is made by the people and for the people. Its meaning in this respect would therefore be such as would be in consonance with the sentiments of the vast majority of the population. The decision of the Supreme court in the State of Madras Vs Champakam Case and other Judgements regarding land legislation forced the Parliament to enact the First Constitutional Amendment Act in 1951, which added clause (4) to Article 15 which also amended the property rights.

The constitutional interpretation of the Supreme Court could be said to be in defence of democratic rights, but the amendment of the Constitution may be said to be a modification of these rights in favour of social justice in the case of conflict. There was no conflict between the Judiciary and Legislature

whenever the Judiciary gave harmonious interpretation to the Acts giving effect to Part IV along with Part III. Conflicts were more apoparent when the Legislature tried land legislation Acts and the Supreme Court nullified them forcing the legislature to amend the Constitution.

The need to tackle the problem of poverty in India has built up pressure for the implementation of the directive principles of state policy particularly the policies embodied in article 39 (b) and (c) of the Constitution. The Government, to provide for equitable distribution of means of production took up land legislation. Persons who have been affected with the land policy were paid compensation which was not adequate. The landlords challenged the validity of such legislation. To prevent these Acts from being invalidated, Constitution Amendment Acts, which were passed from 1951 to 1964, clarified the fact that the right to compensation given by Article 31 was not justiciable in a court of law, and the quantum of compensation as fixed by the legislature, was final. The outcome of the judgement in the Golaknath case was the land reform legislation for the benefit of the poor but it was foiled. The popular opinion was overwhelmingly against the decision. This later led to the Constitution Amendment Act 1971 (24th Amendment) which amended Article 368 to make it clear that the power of amendment extends to any provision of the Constitution.

The decision in the Golaknath case prompted Mr. Nath Pai, M.P. in the Lok Sabha to introduce a Bill on April 7, 1967 seeking to override the Supreme Court's decision in the Golaknath case. The Bill intended to extend the scope of Article 368 to amend any provision of the Constitution. The Bill was referred to the Joint select committee which considered it favourably and suggested the exact manner in which the Articles. 13 and 368 were to be amended. But the Parliament could not take up the Bill.

In 1971, the 24th Constitution Amendment Act did what the Nath Pai Bill had wanted to achieve. In the Keshavananda Bharathi case the Supreme Court reviewed its earlier judgement (given in Golak Nath case) where it had upheld the right of the Parliament to amend any provision of the Constitution. At the same time, the court held that it could not change the basic structure of the Constitution. Then, in 1976 the 42nd amendment was introduced. It practically lowered the prestige of the judiciary by placing some of the articles of the Constitution beyond the purview of the Judicial Review.

Thus, we can observe that conflict between the legislature and the judiciary was inevitable when the Supreme Court did not try to reconcile the provisions of Part IV with the provisions of Part III of the Constitution. The other issue of conflict between the legislature and Judiciary is on the question of the privileges of the Legislatures, but it was questioned the procedure and method which the legislatures adopted to enforce their privileges. The Blitz case, the Search Light case and the Allahabad legislature Case make this point clear.

16.7 42nd Amendment Act and Judiciary

No aspect of the 42nd Constitution Amendment Act (1976) aroused greater controversy than that which related to the powers of the Supreme Court and High Courts. It introduced several clauses that sought to regulate, rather than circumscribe the exercise of the powers of Judicial Review by the courts. The important features of this Act, in this direction may be given as follows.

1. It added clause (4) to Article 368 which deprived the courts of their power to look into the validity of a constitution amendment act.
2. It added Article 32 (A) which laid down that Supreme Court could look into the constitutional validity of a Central law and not that of a State law, unless the relationship of the latter was somehow involved with that of the former. It added Article 226 (A) which provided that the High Courts could look into the validity of state laws only.
3. It provided for the composition of special benches in the Supreme Court and High Courts for the determination of the validity of an impugned law. It laid down that a bench of the Supreme

Court assembled for this purpose, would consist of 7 Judges (5 judges in a High Court) and a decision by 2/3 of the majority would be required in case the Court decided to strike down the challenged law, whether in part, or full. It further provided that in case the total strength of the High Court was of 5 judges or less, then the bench would consist of all the judges and a decision by unanimous vote would be required to strike down the challenged law, whether in part or full.

- 4 It restricted the writ-issuing power of the High Courts by laying down that they may issue writs in the nature of Habeas Corpus, Mandamus, Prohibition, Quo warrant and Certiorari but not for any other purpose except where there is "substantial failure of justice". It is obvious that the 42nd Constitution Amendment Act hit the judiciary very hard.

16.8 43rd and 44th Amendment Acts and Judiciary

As promised in their election manifesto, the rulers of the Janata Party took the necessary steps to restore authority to the Supreme Court and High Courts. Thus, the 43rd and 44th Constitution Amendment Acts which came into being during the Janata rule incorporated the changes discussed below :

The 43rd amendment omitted Articles 32 (a), 131 A and 202 A of the Constitution thereby entitling the Supreme Court, as well as High Court, to look into the constitutional validity of any law, whether at the Central or State level. It amended Articles 145 and omitted 288 A of the Constitution so that the provisions relating to the composition of special benches for determining the validity of an impugned law with special majority were done away with. Consequently the old position was restored.

The 44th Constitution Amendment Act restored the powers of the High Courts to issue writs for any other purpose and deleted the phrase 'save for substantial failure of justice'.

The old position of the judiciary in relation to the determination of the validity of a constitutional amendment was restored. The Supreme Court ruled, in the *Minerva Mills* case that Judicial Review constitutes a part of the basic features of the Constitution and hence cannot be amended by the Parliament.

16.9 Summing Up

Judicial Review is the power to hold unconstitutional any law or official action which is against the provisions of the Indian Constitution. The Supreme Court of India is given this specific power in the Constitution. The concept of Judicial Review originated in United State of America. The fathers of the Indian Constitution preferred the American doctrine of limited government to the English doctrine of parliamentary sovereignty. Though 42nd Constitutional amendment tried to regulate the powers of the judicial review, 44th amendment tried to restore the power of Judiciary. The Judicial review constitutes a part of the basic features of the Constitution.

16.10 Suggested Readings

J.C.Johari : The Constitution Of India.

16.11 Model Questions

- I. Answer the following questions in about 30 lines
1. Examine the origins of the concept of Judicial Review.

2. Discuss the working of Judicial Review in India.
3. Examine the conflict between Legislature and Judiciary.

II. Answer the following questions in about 10 lines

1. What are the maxims of Judicial Review.
2. Examine the effects of 42nd amendment Act on the powers of Judiciary.

Dr.M.Ramchander.

BRAOU

Unit - 17 : Constitutional Amendment

Contents

- 17.0 Objectives
 - 17.1 Introduction
 - 17.2 Method suggested in the Draft constitution
 - 17.3 Amendments : Categorization
 - 17.4 Procedure suggested by the Supreme court
 - 17.5 Judicial Decisions & Constitutional Amendments
 - 17.5.1 First Amendment act
 - 17.5.2 Fourth Amendment act
 - 17.5.3 Seventeenth Amendment Act
 - 17.5.4 Twenty Fourth Amendment Act
 - 17.5.5 Thirty Ninth Amendment Act
 - 17.6 Forty Second Amendment Act
 - 17.7 Forty Third Amendment Act
 - 17.8 Forty Fourth Amendment Act
 - 17.9 Summing Up
 - 17.10 Suggested Readings
 - 17.11 Model Questions
-

17.0 Objectives

After going through the unit you will be able to:

- * List the major amendments
 - * Appreciate the circumstances which warranted the amendment, and
 - * Outline the method of amendments
-

17.1 Introduction

The constitution of a country is a fundamental law of land which not only provides the basic structure of the government but also lays down the basic objectives to be attained. With a view enabling it to change according to the changed circumstances, it is desirable that the constitution should not be very rigid. If it is made rigid it stops the nation's growth, the growth of a living, vital, organic people. Therefore the framers of the Indian Constitution were greatly influenced by the ideology of Macaulay that a Constitution should be flexible so that it can change with the times. If it were rigid it would fail to mould itself according to the needs of the time and would bring about its own destruction. Dr.C.D. Deshmukh a member of Constituent Assembly regarded the process of amendment as safety valves or usual outlets which allowed the air or the storms to pass through. If these safety valves were not provided it could lead to the blowing up of the entire ship. In view of all this framers of the Indian Constitution laid down the procedure for the amendment of the Constitution.

17.2 Method Suggested in the Draft Constitution

In its original draft, the Union Constitution Committee of the Constituent Assembly of India provided the following methods for the amendment of the Constitution.

An amendment of the Constitution may be initiated in either House of the Federal Parliament. When the proposed amendment is passed in each House by a majority of not less than two-thirds of the members of that House present and voting is ratified by the legislatures of not less than one-half of the units of the federation, it shall be presented to the President for his assent. Upon such assent being given, the amendment shall come into operation.

However, a week later the Committee further liberalized the proposed procedure for amending the constitution. It added a provision as under provided that if such amendment is in respect of any provision of the Constitution relating to all or any of the following matters namely:

- a) any change in the federal legislative list,
- b) representation of units in the Federal parliament, and
- c) powers of the Supreme Court. It will also require to be ratified by the legislature of the units representing a majority of the population of all the units of the federation in which the units representing at least one-third of the population of the Federated States are included.

Towards the last quarter of 1947 various proposals for amending the Constitution were discussed and the Drafting Committee broadly adopted the amending procedure recommended by the Union Constitution committee, suggesting three important changes. Firstly, it provided that the ratification by the unit legislatures should be necessary not only for making changes in the federal legislative list, as had been recommended by the Union Constitution committee, but also for making changes in any of the lists. Secondly, as regards the states, it provided that the amendment must be ratified by the States, instead of the number of states representing one-third of the population of the states, as had been provided by the Union Constitution Committee.

Finally, the draft constitution provided that the provincial legislatures could initiate measures for amending the Constitution only in respect of two matters namely (i) the method of choosing the Governor if the panel system is not adopted and (ii) the abolition or creation of second chambers. This proposal was also not accepted in toto. the Constituent assembly also rejected the amendment moved by Jawahar Lal Nehru suggesting that the power to amend the Constitution during the first five years of the federation be vested in the federal Parliament which should be empowered to amend it by a simple majority.

Finally Article 368 of the Constitution was adopted. It said,

"An amendment of this Constitution may be initiated only by the introduction of a bill for the purpose in either House of Parliament, and when the Bill is passed in each House by a majority of the total membership of that House present and voting, it shall be presented to the President for his assent and upon such assent being given to the Bill, the Constitution shall stand amended in accordance with the terms of the Bill: Provided that if such amendment seeks to make any change in

- (a) Article 54, Article 55, Article 162 or Article 241 or
- (b) Chapter IV of Part V, Chapter V of Part VI, Article 73, or Chapter I of Part XI: or
- (c) any of the lists in the seventh schedule: or
- (d) The representation of states in parliament: or
- (e) the provisions of this Article.

The amendment shall also require to be ratified by the Legislatures of not less than one half of the States by resolution to that effect passed by these legislatures before the Bill-making provision for such amendment is presented to the President for assent."

17.3 Amendments : Categorisation

Thus the Constitution divided the Articles of the Constitution into three categories, laying down three different methods for amending them. These methods are :-

- * Some Amendments by Parliament by simple majority;
- * Some can be amended by Parliament by a majority of the total membership of each of the House and by a two-thirds majority of the members present and voting; and
- * Some articles require, for their amendment, apart from two-thirds majority of the two houses of Parliament, ratification by the Legislatures of one-half of the states.

It may thus be concluded, that the process of amending the Constitution of India is flexible for certain purposes and rigid for certain other purposes. Though the major part of the Constitution can be amended by Parliament it gives the State Legislatures a determining voice in effecting constitutional changes in matters effecting them.

The framers of the Indian Constitution were anxious about two things; they did not want to make the constitution so flexible as to allow ruling parties to change it according to their whims, and they did not want it to be so rigid as to be incapable of adapting itself to the changing conditions. The result is that we find a unique blend of flexibility and rigidity in the Constitution. In the case of a number of its provisions, amendment is as easy as in Great Britain; in the case of certain other provisions, amendment is almost as difficult as in United States. Taken as a whole, we may say that the Indian constitution is as flexible as the British one, and as rigid as that of the United States. In this connection Jawaharlal Nehru observed that while he wanted this constitution to be as solid and permanent as we could make it, there is no permanence in constitutions. There should be a certain flexibility. If we make everything rigid and permanent, we stop the nation's growth, the growth of a living, vital, organic people. In any event, we should not make this constitution so rigid that it cannot be adapted to changing conditions. Sir Ivor Jennings considers the Indian constitution as rigid, whereas other experts consider that the special procedure for amending certain Articles does not make the constitution rigid. In fact, it is the mixture of both the flexible and rigid types. The constitution thus ensures adaptability by prescribing a variety of modes in which its original text may be changed or supplemented, a fact which has been appreciated by Prof.K.C.Wheare. He says, "This variety in the amending process is wise but is rarely found."

Check Your Progress - 1

What are the categories of Amendments?

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17.4 Procedure Suggested by the Supreme Court

Apart from the procedure suggested in the Constitution, the Supreme Court in the Golak Nath case suggested procedures to amend that portion of the Constitution i.e., Part - III which is not covered by Article 368. The Parliament can use any of the following procedures for the purpose:

- a) A Constituent Assembly could be called for the purpose of the amendment.
- b) A convention could also be held for amending the Constitution.
- c) A referendum could also be held to amend the Constitution.

Thus one can say that we have in all four methods for amending the Constitution. The Supreme Court reviewed its judgement in the Keshavananda Bharati case, and upheld by 7 to 6 majority, that the parliament is competent to amend any part of the constitution without destroying the basic structure of the Constitution.

17.5 Judicial decisions and Constitutional Amendments

The Constitution has so far been amended 46 times. Most of the amendments were enacted to overcome the defects pointed out by the judiciary while judging the constitutionality of various legislative measures.

17.5.1 First amendment act

Article 19 (f) guarantees to all citizens the right to acquire, hold and dispose of property subject to reasonable restrictions on the exercise of that right in the interests of the public. After Independence many agrarian reforms were effected by legislation aiming at the abolition of the zamindari system. Such legislation might possibly conflict with the fundamental right of zamindars under Article 31 (b). So the constitution provided some safeguards to such acts in the form of Article 31 (b) and Article 31 (4).

It was thought that these provisions were sufficient to save the Estate Abolition legislation. But it was a fact that such legislation might be attacked with reference to other fundamental rights such as Article 14 and 19. In fact, many of the legislative enactments dealing with the Estates Abolition, were challenged in the courts as unconstitutional with reference to Articles 14 and 19. To avoid such litigation and to push through the agrarian reforms embodied in such litigation, the Constitution First Amendment Act was passed.

The amendment also sought to remove the defects pointed out in the Champakam Vs State of Madras in the implementation of Directive Principles.

The First amendment Act 1951 amended Articles 15, 19, 31, 85, 87, 174, 341, 342, 372, and 376. Several new restrictions to freedom of speech and expression were added. Articles 11 A and 11B were added with the object of facilitating the acquisition of zamindari Estates without the obligation of payment of compensation.

17.5.2 Fourth Amendment Act

The scope of the right to property was elucidated by the Supreme Court in the First and Second Sholapur Mills Cases, Subodh Gopal Case and Bala Benerji Case. The effect of the decisions in the above cases was to protect private property by requiring that deprivation of property should conform to the following requirements.

1. Authorisation by law; an executive order is not sufficient for the purpose.
2. Existence of a public purpose is a justiciable issue.
3. Payment of compensation means proper equivalent value. Whether there is compensation in this sense is a justiciable question.

These requirements rendered the guarantees to private property very effective. The protection to property was so complete that the way to agrarian reforms was blocked. This necessitated parliament's enactment of the IV Amendment Act. By IV Amendment Act, clause (2) of Article 31 was completely recast. The Act said that adequacy of the compensation cannot be made a justiciable question. The legislative determination is final and unchallengeable. It also said that a law which does not provide for the transfer of ownership or right to possession to the state or a state corporation need not comply with the requirements laid down in clause (2) relating to public purpose and compensation. It superseded the decisions and observations of the supreme Court in several cases.

17.5.3 Seventeenth Amendment Act

The Constitution's 17th Amendment Act was intended to remove the last remaining constitutional impediments to the implementation of agrarian reforms. By the Constitution First Amendment Act Article 31 - A was inserted in the Constitution for removing land held by intermediaries such as Zamindars, Inamdars, Jagirdars from the purview of the guarantees of Fundamental Rights. As a result of that

Amendment no protection could be claimed for the estates of these persons when they were acquired by the state. By way of abundant caution that Amendment also inserted the 9th Schedule in which were listed all the legislative enactments pertaining to land reforms passed in various States. Article 31 B safeguarded all these Acts from challenge on the basis of Fundamental rights. Further agrarian reforms were required to bring about a socialistic pattern of society. The big landlords were the targets of these reforms. They are not intermediaries like Zamindars and Inamdars who had an interest in the land revenue. They are proprietors of the soil and held the land under what is called ryotwari tenure wherein each ryot pays land revenue directly to the state and has the right of personal cultivation of his holding. The aim of the reforms, directed against these landlords was to set a ceiling on the maximum limit of the holding which each individual or family may retain for personal cultivation. The extent of land over and above this limit would be treated as surplus land. It would be acquired by the state and distributed among the landless poor. Legislation of this kind encountered constitutional hurdles which could not be crossed. Hence the 17th Amendment Act became necessary.

In *Karimbil Kumhikoman Vs State of Kerala* and in *Purushotham Vs State of Kerala*, the Supreme Court had to consider the constitutionality of Kerala Agrarian Reforms Act. The Act was struck down as it was violative of Article 14 and the Court further held that the land, being ryotwari land was not an estate that could get the protection of Article 31-A. On similar grounds, the Madras Land Reforms Fixation of Ceilings on Land Act 1961 was held void by the Supreme Court. These decisions had to be superseded to facilitate land reforms.

The 17th Amendment Act of 1964 amended Article 31 to make it more extensive so as to cover ryotwari land under Estate. It had retrospective effect from 26th January, 1950. The Ninth Schedule was amended to include 44 state enactments relating to land reforms in order to remove any doubt that may arise in regard to their validity. The only redeeming feature of the Amendment is that when land under personal cultivation is acquired by the state the compensation shall not be less than its market value. The validity of the amendments which a bridged property rights was challenged in the *Golaknath* case in the Supreme Court.

17.5.4 Twenty Fourth Amendment Act

Article 13 (2) of the Constitution provides that the State shall not make any law which takes away or abridges the rights conferred by this part and any law made in contravention of this clause shall to the extent of the contravention be void. The question is whether this Article is confined to the ordinary law made under the Constitution or covers the amendment of the Constitution as well. The constitutional bench of the Supreme Court in October 1951 in the *Shankari Prasad* case held that Article 13 (2) does not cover constitutional amendments.

Thirteen years later the challenge was renewed in the *Sajjan Singh* case but was repealed. This time, however, the bench was divided. Three judges followed the *Shankari Prasad* case, whereas two doubted the soundness of the precedent. In view of this division of opinion the *Golak Nath* case was heard by a special bench of eleven judges. By a majority of six to five the bench held that Article 13 (2) does indeed govern Constitutional Amendments as well. It further suggested alternative methods to amend Part III of the Constitution. The decision in this case led to much public furore and ultimately when the Congress Party secured an overwhelming majority in the 1971 Lok Sabha elections it proceeded to restore the power of the Parliament to amend any provision of the Constitution. The result was the 24th Constitutional Amendment Act. The 24th Constitutional Amendment Act, 1971 provided that the President was bound to give assent to a Constitutional Amendment Act. It was now obligatory for him to do so. The Amendment also provided that an amendment of the Constitution passed in accordance with Article 368 will not be law within the meaning of the Article 13 and the validity of an amendment act shall not be open to question on the ground that it takes away or affects Part III.

The Supreme Court discussed the 24th Amendment Act in the *Keshavanand Bharathi* case which was heard by 13 judges and overruled the decision of the *Golak Nath* case. The judgement upheld the

Constitutional validity of the 24th Amendment Act. It further held that there are certain basic features of the Constitution which the Parliament cannot amend in the exercise of its power to amend the Constitution.

17.5.5 Twent fifth Amendment Act

The decisions of the Supreme Court in the Golak Nath case, R.C.Cooper Vs. Union of India upheld the right to property and the court wanted the Government pay full compensation for its compulsory acquisition of property. The judgement forced the Government to make the 25th Amendment whereby Articles 39 (b) and (c) got primacy over Article 31.

The 25th Amendment Act amended Article 31(2) and a new Article 31(c) was inserted. The word 'compensation' as replaced by the word amount. The intention was to over-rule the interpretation of the Supreme Court that the full monetary equivalent of the property acquired must be paid in the case of compulsory acquisition. The amendments also sought to take away the doctrine of Judicial Review.

The majority of 7 is to 6 judges in the Keshavananda Bharathi case invalidated the second part of Article 31 (c) which rendered ineffective the power of Judicial Review which the court held, is a basic feature of the Constitution.

17.5.6 Thirty ninth Amendment Act

The Allahabad High Court decision invalidating the election of Indira Gandhi prompted the 39th Constitutional Amendment Act.

The 39th Amendment Act 1975 precluded the jurisdiction of the Courts in any manner to entertain any dispute as to the election of a person as President, Vice-President, Prime Minister, or Speaker of the House of the people. All doubts and disputes arising out of the election of the President or Vice-President shall be inquired into and decided by such authority or body and in such manner as may be provided for under the law.

17.6 Forty second Amendment Act

The Supreme Court in a majority judgement in the Indira Gandhi Vs Raj Narain Case invalidated clause 4 of Article 329(a) which was inserted by 39th Amendment Act. The clause was invalidated on the ground that it altered certain basic features of the Constitution such as the principles of free and fair election or rule of law or abolishing judicial determination of an election dispute without affording any alternative forum. The judgement incapacitating the Parliament to amend the basic structure or frame work of the Constitution made the Parliament enact the 42nd Constitutional Amendment Act. This Amendment sought to declare that Parliament is a sovereign body. Its intention is that constitutional amendments cannot be questioned in any court of law and further it wanted to overrule the judgements in the Keshavanand Bharathi and the Indira Vs Raj Narain cases.

The 42nd Amendment act sought to bring about a basic structural and functional change in the set up of the political system as well.

The Amendment was more comprehensive and consisted of 59 sections. The Amendment over-turned and seriously impaired the Constitution as it was originally conceived. It was an attempt to constitutionalise the system of Prime Ministerial autocracy as different from the system of Parliamentary Democracy. The main features of the Amendment are the following:-

- * The three new phrases-socialism, secularism and unity and integrity of the Nation were inserted to the preamble of the Constitution.
- * Four new Directive Principles were incorporated.
- * Fundamental Duties of the citizen were added.

- * Two new clauses were added to Article 368 which empowered Parliament to amend any part of the Constitution, including the basic features, and further, the Amendment Acts were declared to be beyond the jurisdiction of the courts.
- * The scope of the judicial review of the judiciary was restricted.
- * Education, law, family planning, weights and measures, forests, and protection of wild animals were brought under the jurisdiction of both the Union and State Governments.
- * Emergency could be imposed on any part of the entire country.
- * The term of office of Lok Sabha and State Legislative Assemblies was increased from 5 years to 6 years.
- * The advice of the Council of Ministers was made binding on the President.
- * The declaration of emergency was to be in force for one year at the first instance and could be extended by one year at a time.
- * The Directive Principles were given precedence over Fundamental Rights.

The 42nd Amendment Act created a lot of tension in the country. The Lok Sabha elections were fought on the issue of the 42nd Amendment Act. The elections returned the Janata Party to power. The Janata Party, which promised to repeal the 42nd Amendment, slowly began the process. It enacted two Amendment Acts namely 43rd and 44th Amendments to remove the undemocratic measures of the 42nd Amendment Act.

17.7 Forty third Amendment Act

The 43rd Amendment Act restored the prestige of the Judiciary enjoyed prior to the Emergency.

17.8 Forty fourth Amendment Act

The 44th Amendment Act removed the property right from Part III and it was made a legal right. The measure enabled the parliament to give effect to Part IV without touching Part III of the Constitution. Some important features of the 44th Amendment.

The Amendment provided safeguards against the future subversion and sabotage of the Constitution. Safeguards were provided to ensure and guarantee right to life and personal liberty even during the period of emergency. It was made obligatory for the President to oblige the re-tendered counsel of the Council of Ministry after its reconsideration. A new Directive principle was added so that the State could strive to minimise inequalities in incomes and endeavour to eliminate inequalities in status, facilities and opportunity among all citizens.

The fear, that the provision in Articles 368 clauses (4) and (5) which were inserted by the 42nd Amendment Act may lead to the despotism of the Legislature, made some challenge the validity of the said clauses in the Supreme Court. The court, in the famous *Minerva-Mills Case* held that the Parliament did not have the power to amend the basic features of the Constitution. It further held that the testing of the constitutionality of the Amendments Act is a basic feature of the Constitution, and hence, it is subject to the judicial review.

The Forty-Fifth Amendment Act extended the period of reservations from 30 years to forty years.

The above amendments show how the attempts have been made to destroy democratic values and how these democratic values are being restored.

17.9 Summing Up

Though it may appear that the constitutional amendments emphasize socio-economic issues, it is not so. There were other amendments which changed the nature of the Indian Polity though no far-reaching structural changes were evident. These amendments pertained to the adjustment polity of boundaries, the re-organization of states, the transfer of Indian Territories to Pakistan and vice-versa, the merger to Sikkim etc.

17.10 Suggested Readings

1. Donald Meikle John : Prospects of Indian Democracy
 2. D.C.Guptha : Indian Government and Politics.
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17.11 Model Questions.

I. Answer the Following questions in about 30 lines

1. Describe the procedures for amending the Indian Constitution.
2. Examine the Importance of the 17th amendment of the Constitution.
3. Examine the implication of the 42nd amendment of the Constitution.

II. Answer the following questions in about 15 lines

1. Constitutional First Amendment Act.
2. Constitutional Fourth Amendment Act.
3. Constitutional 44th Amendment Act.

Dr.M.Ramchander.

Block - IV : FUNDAMENTAL RIGHTS

Unit-18 : Fundamental Rights

Contents

- 18.0 Objectives
- 18.1 Introduction
- 18.2 Difference between Fundamental Rights and Directive Principles
- 18.3 Conflict between Fundamental Rights and Directive Principle
- 18.4 Changing Relationship between Fundamental Rights and Directive Principles.
- 18.5 Summing Up.
- 18.6 Suggested Readings
- 18.7 Model Questions

18.0 Objectives

After going through the unit you will be able to :

- * Differentiate between fundamental rights and directive principles; and
- * Note the conflict between fundamental rights and directive principles.

18.1 Introduction

Our constitution envisages a liberal democracy and ordains that the objectives of social justice should be achieved without restricting the freedom and the dignity of the individual. Part III of the Constitution enunciates the Fundamental Rights and part IV sets out the Directive Principles of state policy. The Directive Principles are the directory ends of Government, while the Fundamental Rights are the means for achieving these ends.

Directive Principles differ from Fundamental Rights in their nature as well as emphasis. Fundamental Rights represent the freedom of the individual, whereas the Directive Principles stand for the collective welfare of the society. Fundamental Rights are the permissible means through which the 'ends' represented by the Directive Principles are to be achieved.

18.2 Differences between Fundamental Rights and Directive Principles.

The following are some of the major differences between Fundamental Rights and the Directive Principles of State Policy.

1. While the Fundamental Rights act as constraints on the State's authority, the directive principles are in the nature of instruments of instruction to the Government (irrespective of party) to do certain things and to achieve certain ends.
2. The Directive Principles have no Constitutional sanction. They have to be implemented by legislation, so long there is no law carrying out the policy laid down in a Directive. Neither the State nor an individual can violate any existing law or legal right in the name of implementing a directive. Fundamental Rights on the other hand, have direct Constitutional sanction whose implementation needs no legislation.
3. The Directive Principles are not enforceable in the courts and do not create any justifiable rights in favour of the individual. From the view point of an individual, Fundamental Rights and the Directive Principles differ on the basis of justiciable and non-justiciable classification. While the Fundamental rights are justiciable, Directive Principles are non-justiciable, for in any violation of a fundamental Right, the

aggrieved party or the affected person can seek a legal remedy by approaching any court. The non-implementation of a Directive Principle, however, does not attract any judicial intervention. Thus, though a Directive under Article 43 enjoins the State to secure a living wage to all workers, no worker can obtain a living wage by approaching any court of law. In other words, the courts are not competent to force the government for the implementation of any Directive.

4. Again for the same reason, a law which violates a Fundamental right can be declared by the court as null and void, but a law which is contrary to any Directive cannot be declared as unconstitutional.

5. The Fundamental Rights incorporated in part III of the constitution concern the individual whereas the Directive Principles deal with the welfare of the entire society in which the individual is but a part.

6. Fundamental Rights are negative in character. They are injunctions addressed to the State to restrain from doing certain acts beyond the Constitutional limits imposed by law, whereas the Directive Principles adopt a positive approach.

7. The Fundamental Rights are in the nature of inalienable rights. Amendments to the Constitution cannot be allowed to take away or abridge them. But the Directive Principles are constitutional obligations on the legislature, and the executive and the State are under obligation to follow them both in the matter of administration, as well as in the making of laws.

18.3 Conflict between Fundamental Rights and the Directive Principles.

In case of a conflict between Fundamental Rights and the Directive Principles, the former will prevail in the courts. This is because of the fact that the Rights are protected and guaranteed with remedies by way of writs, orders and directives under Article 32 of Constitution by the Supreme Court and High Courts, whereas the Directive Principles do not enjoy such a legal or judicial protection. The Supreme Court in the dispute of the State of Madras V. Champakam Dorairajan held that the Directive Principles of State Policy which are expressly made unenforceable by a court cannot override the provisions in Part III (The Fundamental Rights) which under Article 32 are enforceable by appropriate writs, orders or directions.

The court further said in the above-mentioned dispute that the chapter on Fundamental Rights is sacrosanct and not liable to be abridged by any legislative or executive act. The Directive Principles of State policy have to conform to and run subsidiary to the Chapter of Fundamental Rights.

18.4 Changing Relationship between Fundamental Rights and Directive Principles

Although a distinction is made between Directive Principles and Fundamental Rights by way of justiciable and non-justiciable classification, yet, over the years, Directive Principles have become politically important and the relation between the two has undergone several changes.

Now the debatable question is, what would happen in case of a conflict between Fundamental Rights which represent the interests of the individual, and the Directive Principles, which stand for the welfare of the society. This conflict has become a political issue. The socialist-oriented Congress Party which remained in power at the centre sought to implement its socialist policies through parliamentary legislation which came into direct conflict with the basic freedom of the people as enshrined in Part III of the Constitution. The Supreme Court consistently held the opinion that the Directive Principles should be subsidiary to the Fundamental Rights. Judgements in various disputes like Sajjan Singh Vs. The State of Rajasthan, Qureshi Vs. the State of Bihar and in 1967 in Golaknath Vs. the State of Punjab, the Supreme Court confirmed its stand and reiterated that it is the duty of Parliament to enforce the Directive Principles without tampering with the Fundamental Rights.

As a result of the invalidation of certain laws like the Bank Nationalisation, abolition of Privy Purses, the Parliament enacted the 25th constitutional Amendment Act in 1971 which declared that the enforcement of a Directive Principle of State policy shall not be invalidated by any court on the ground that it violates Fundamental Rights in Articles 14, 19 and 31.

Again the 42nd Constitutional Amendment Act, enacted by Parliament in 1976 declared that no law, giving effect to any or all directive Principles, shall be invalid on the ground that it infringes Fundamental Rights. However, in the *Minerva Mills* case in 1980, the Supreme Court struck down Art. 31(c) and restored the original supremacy and sanctity of the fundamental rights over the Directive Principles of the State policy. Thus the Fundamental Rights have primacy over the Directive Principles.

Check Your Progress -I

What were the cases that led to the conflict between Fundamental Rights and Directive Principles of State policy ?

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18.5 Summing Up.

India is a country where political democracy has preceded industrial advancement and social progress. It is, therefore, only natural for many to feel that without providing the opportunities for the enjoyment of Fundamental Rights which, in any case, are available to only a few citizens. Undue emphasis on Fundamental Rights ignoring the Directive Principles, may only lead to the frustration of millions of people who are yet to get living wages.

We have not given any importance to the thought that political democracy is meaningless without economic democracy. One may question, in this connection, the utility of personal freedom when there is no guarantee for the eradication of unemployment, illiteracy and poverty in our country. A gigantic programme of public welfare is required for the removal of evils like disease, malnutrition, starvation, unemployment and squalor. For this, instead of seeking to keep the so-called Fundamental Rights as sacrosanct particularly when they come into conflict with the implementation of Directive Principles, we need to display a more positive and balanced view.

This position of Fundamental Rights as sacrosanct is viewed by many as unnecessary. They say that, in our country, since a vast majority of people live much below the subsistence level, Fundamental Rights have no attraction for them. Again, these rights are useful to a person who has the resources of prosperity. They are no good for those who do not earn a regular wage. For example, the right to property safeguards the property of that person who has property but does not confer property on a person who has no property at all. Since such people are very large in number, it is argued that the Fundamental Rights are being used by a microscopic minority in order to thwart the implementation of socialist measures by government whose aim is public welfare.

Thus the legal or the constitutional conflict or differences between Fundamental Rights and Directive Principles are being politicised. As a matter of fact, there should not be any conflict between these two one represents the individual and the other the society. The relationship between these two should be harmonious as they are components of a whole.

In a country like India, where the state is increasingly taking part in the processes of economic development and social upliftment of the people by envisaging and implementing a number of measures, Rights should not come in the way of the larger benefits of the people. The Judiciary also should take a liberal view of the letter and spirit of the Constitution in such a way as to suit the present needs and aspirations of the people. Other wise, a Constitution, whose rules and regulations do not create or extend basic living opportunities will be treated by the people as a scrap of paper. On the other hand, if government and parliament are allowed to tamper with the basic freedom of the people, in the name of implementing the Directive Principles, it will pave the way for serfdom.

Check Your Progress-II

Write a short note on Fundamental rights and Directive Principles of State Policy ?

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18.6 Suggested Readings

Granville Austin: The Indian Constitution ; corner stone of the nation.

18.7 Model Questions

I. Answer the following questions in about 30 lines

1. Bringing out the distinction between the Fundamental Rights and the directive Principles of State policy.
2. Examine the Changing relationship between the Fundamental rights and the Directive Principles.
3. What happens if there is a conflict between the Fundamental Rights and the Directive principles.

II. Answer the following questions in about 15 lines.

1. Why are the Fundamental Rights regarded as negative in character.
2. Why are the Directive Principles considered to be positive in nature.

Dr.V.Krishna Rao

Unit-19: Meaning and Scope of Fundamental Rights

Contents

- 19.0 Objectives
- 19.1 Introduction
- 19.2 Rights are not Absolute
- 19.3 Evolution of Fundamental Rights
- 19.4 Special Features of Fundamental Rights
 - 19.4.1 Most elaborate
 - 19.4.2 Rights are not Absolute
 - 19.4.3 No 'Due Process' clause
 - 19.4.4 Rights are subject to suspension
 - 19.4.5 Distinction between Aliens & Citizens
 - 19.4.6 Provision for the enforcement of Rights
- 19.5 List of Fundamental Rights
 - 19.5.1 Right to Equality
 - 19.5.2 Right to Freedom
 - 19.5.3 Right against exploitation
 - 19.5.4 Freedom of Conscience & Religion
 - 19.5.5 Cultural & Educational Rights
 - 19.5.6 Right to Property
 - 19.5.7 Right to constitutional Remedies
- 19.6 Fundamental Rights and Emergency
- 19.7 Fundamental Rights - Parliament & the Supreme Court
- 19.8 Summing Up
- 19.9 Suggested Readings
- 19.10 Model Questions

19.0 Objectives

After going through the unit you will be able to:

- * List the fundamental rights
- * Explain their evolution
- * Sketch the special features

19.1 Introduction

In the words of Prof. Laski "Every state is known by the rights it maintains" and the extent to which the rights are operative proves the philosophy of the State.

The concept of rights is as old as political theory. One of the most important problems of democratic polity is the place of rights within the framework of the machinery of the state. The writings of Thomas Paine, John Locke and others have brought to light the theory of Natural Rights and these have been incorporated in the Constitution of the United States of America.

In the United States, rights are declared rather than conferred; in Britain they are neither declared nor conferred but practised. The Indian Constitution follows the British pattern in so far as it does not accept the theory of Natural Rights and confers only certain rights. The citizen cannot claim any unenumerated rights.

19.2 Rights are not absolute

Fundamental Rights under our constitution are not absolute. They are limited by constitutional provisions-regarding emergency, executive powers and legislative enactments. In this connection it may be pointed out that in the United States none of the basic rights can be suspended excepting the right to the writ of Habeas Corpus by the Congress during an emergency

Again, all rights guaranteed under our Constitution are not enforceable. A distinction is made between Fundamental Rights and the Directive Principles of State policy in the enforceable list and others of a more positive nature whose non-enforceability cannot be challenged in a court of law. But in every case it is the rights which are fundamental, not the limitation, and it is the duty of all courts to safeguard and defend these rights.

In the last analysis rights are fundamental not because they are incorporated in the Constitution but because rights constitute the "minimum conditions of social life without which no man can call himself a free citizen."

The very purpose of a chapter on Fundamental Rights is to protect certain subjects from the vicissitudes of political controversy, to place them beyond the reach of any legislative majority, demagogue, and populist slogan of power-hungry politicians. One's right to life, liberty and property, to speech, a free press, freedom of worship and assembly may not be submitted to vote, they depend on the outcome of no elections.

19.3 Evolution of Fundamental Rights

The framers of the Constitution, being most of them liberal in ideological orientation gave preference to the basic freedom of the people than to anything else. They feared that without a proper Constitutional scheme for civil and political rights, the democratic system could not be established in the country on strong and firm foundations. As a matter of fact, way back in 1928, the Congress sub-committee recommended for creation of civil and political rights for the people. But then the British government did not accept this proposal.

During the Constituent Assembly debates, the Chapter on Fundamental Rights figured prominently. As most of the members of the Constituent Assembly had received English education they were liberal democrats in their attitude. Hence Fundamental Rights were discussed till threadbare, and many provisions relating to minute details were included in Part III of the Constitution.

19.4 Some Special Features of Fundamental Rights

The following are some of the special features of Fundamental Rights:

19.4.1 Most elaborate

The Indian Constitution has the most elaborate Declaration of Fundamental Rights. They are dealt with in 24 Articles divided into eight sections. The first deals with general provisions and the rest with different categories of rights such as Right to Equality, Freedom of Religion, Right to Constitutional remedies, etc.

19.4.2 Rights are not absolute

Our Fundamental Rights are not absolute. The Constitution itself enumerates in case of each right, certain exceptions and limitations.

19.4.3 No 'Due Process' clause

All the Fundamental Rights are subject to the procedure established by law. Our Constitution does not follow the 'due process' clause of the American Constitution according to which the 'due process' is to be decided by the courts. On the other hand, the Indian Parliament, through the "procedure established by law", can regulate the operation of rights.

19.4.4 Rights are subject to suspension

The Fundamental Rights can be restricted or suspended. According to Article 33 Parliament may by law determine to what extent any of the Fundamental Rights shall, in their application to the members of the armed forces, or the forces charged with the maintenance of public order, be restricted or abrogated so as to ensure the proper discharge of their duties and the maintenance of discipline among them.

Apart from this, the President of India may suspend the operation of all Fundamental Rights through Article 359 when a national emergency is proclaimed by him.

19.4.5 Distinction between Aliens and Citizens

A distinction is maintained between citizens and aliens in regard to the utility of these rights. While such rights as equality before law, religious freedom, etc. are available to the citizens and aliens alike, rights like freedom of speech and assembly, cultural and educational freedom are restricted only to the citizens of India.

19.4.6 Provision for the enforcement of rights

Another important feature of Fundamental Rights is that there is a special Constitution provision for their enforcement. The right to move the High Courts and the Supreme Court for the enforcement of Fundamental Rights is itself a guaranteed right through Article 32.

19.4.7 Negative in character

Some of the Fundamental Rights are in the nature of prohibitions and place Constitutional restraints on the authority of the state. For example, no authority of the state can deny equal protection of the laws; there cannot be any discrimination against any citizen, etc.

19.5 List of Fundamental Rights

The following are the Fundamental Rights as provided by the Constitution:

- * Right to Equality.
- * Right to Freedom.
- * Right against Exploitation.
- * Right to Freedom of Religion.
- * Cultural and Educational Rights.
- * Right to Property.
- * Right to Constitutional Remedies.

19.5.1 Right to Equality

Under Article 14 of the state shall not deny to any person equality before law or equal protection of the laws within the territory of India. Equality of opportunity is also guaranteed, although certain reservations and concessions are made for Scheduled Castes, Scheduled Tribes and Backward Classes, both in the fields of education and public employment. Though this exception seems to go against the concept of equality, it is justified since the state has a moral obligation for the upliftment of the weaker sections. Although the claims of the weaker and minority sections shall be taken into consideration in the matter of employment,

as far as possible, they should be consistent with the maintenance of the efficiency of the administration. At the same time, these reservations should not trespass into the legitimate claims of other people.

19.5.2 Right to Freedom

Liberty of thought, expression, belief and worship as enumerated in the Preamble has been translated into concrete reality through Articles 19 to 22 which deal with the different aspects of personal liberty, the most fundamental of the Fundamental Rights.

Consistent with the theory that a right can never be absolute, the Constitution imposes specific limitations on the Right to Freedom. Personal liberty is restricted by the Preventive Detention Acts, and National Security Act which give wide powers to the executive to detain a person in advance to prevent him from committing a breach of the law. As the object is precautionary, the matter is left to the discretion of executive, which may only act on mere suspicion and supposition. This, together with draconian emergency powers of the President, constitute a callous attack on the most fundamental of Fundamental Rights, namely personal liberty if abused by the Government to liquidate its political rivals as had happened during the imposition of internal emergency.

19.5.3 Right Against Exploitation

Articles 23 and 24 deal with the Right against Exploitation. They prohibit all traffic in human beings and other forms of bonded labour. What is prohibited by the article is the act of compelling a person to render gratuitous service when he was lawfully entitled either not to work or to receive remuneration for it.

Special provision for the protection of children is made in Article 24 which says "No child below the age of fourteen years, shall be employed to work in any factory or mine or engaged in any other hazardous employment." The prohibition imposed by this Article on the employment of child labour in hazardous work such as in mines, or on ports is absolute and does not make any exception.

19.5.4 Freedom of Conscience and Religion

Freedom of Religion is guaranteed through Articles 25 to 28 to all citizens of India. Article 25 confers the Freedom of conscience and free profession, practice and propagation of any religion. Article 26 gives the freedom to every religious denomination, or to any section thereof, to establish and maintain institutions for religious and charitable purposes, to manage its own affairs in matters of religion, to own and acquire movable and immovable property, and to administer such property in accordance with law.

Like any other Fundamental Right, Right to Religion has certain qualifying clauses. This Right is subject to the norms of public order, morality and health. It is also provided that they shall have the right to regulate or restrict any economic, financial, political or other secular activity that may be associated with a religious practice.

19.5.5 Cultural and Educational Rights

Articles 29 and 30 deal with the cultural and educational rights particularly of the religious and linguistic minorities. Article 29 lays down that any section of the citizens residing in the territory of India having their distinct language, script or culture shall have the right to conserve the same. No citizen shall be denied admission to any educational institution maintained by the state, or receiving aid out of state funds on grounds of religion, race, caste, language or any of them. Article 30 says that all minorities whether based on religion, language, shall have the right to establish and administer educational institutions of their choice. The state shall not, in granting aid to them, discriminate any educational institution on the ground that it is under the management of a minority, whether based on religion or language.

The objective of these rights is to give cultural protection not only to religious minorities but also to the linguistic minorities.

19.5.6 Right to Property

Right to Property has been one of the most controversial of all the Fundamental Rights provided by the Constitution of India. The Constitution, originally provided the Right to Property through Articles 19 and 31. Under Article 19 every citizen is assured of the right to acquire, hold and dispose of property, subject to reasonable restrictions imposed by law in the interests of general good. Article 31 provides that no person shall be deprived of his property save by the authority of law, that property shall be compulsorily acquired, or requisitioned save (i) for public purpose, and (ii) by the authority of law which provides compensation for the property so acquired, and such law should either fix the amount of compensation or should specify the principles on which, and the manner in which the compensation is to be determined and given.

This Right to Property has become relative because the state can acquire property of any citizen or institution "in the interests of public welfare" after compensation is paid. It is a restricted right because the citizen cannot have any permanent claim to property and use it as he likes which he has earned through his own efforts and enterprise, or inherited from his forefathers.

Even before the 25th Amendment (1972) which took away the right to compensation from Article 31 (2) and inserted Article 31 (c), the Right to Property was limited and flexible and so framed as not to interfere with the requirements of true socialism. In effect, it declared that the right to property was no more a justiciable matter under the Constitution.

Finally, the 44th Constitutional Amendment Act deleted the Right to Property from the list of Fundamental Rights. Therefore, the right to property, in its present form, is no longer a fundamental, but only a legal right, subject to the laws of Parliament.

19.5.7 Right to Constitutional Remedies

Our Constitution, apart from conferring on the citizens the rights mentioned above, also confers the right to enforce freedoms as guaranteed by the Constitution. Thus, Articles 32 and 226 empower the Supreme Court and High Courts to issue orders, directions and writs for the enforcement of Fundamental Rights. The following are the writs being issued by the courts.

The writ of habeas corpus provides a remedy for wrongful detention of a person and directs the detaining authority to present the detained person before the court and justify his detention.

The writ of mandamus is an order given by a court to some inferior authority to perform an act which falls within its jurisdiction.

The writ of prohibition is issued by the court to prevent an inferior authority from doing that which falls outside its jurisdiction.

The writ of certiorari is issued by the court to some inferior authority to transfer the matter to it or to some other superior authority for its proper consideration.

The writ of quo warranto is issued by the court with a view to restrain a person from acting in a public office to which he is not entitled.

The powers described above, when exercised by the Judiciary make the court the protector and guarantor of Fundamental Rights.

19.6 Fundamental Rights and Emergency

When the President of India declares a national emergency (Article 352) he may suspend all the Fundamental Rights of the citizens including that of the right to move the courts for the enforcement of the Fundamental Rights (Article 359). So long as the emergency is in operation, the courts are debarred from admitting any plea filed by a citizen except the right to life. Thus, government, police and the investigating authorities acquire enormous powers to control the freedom of the individual. This happened during the imposition of internal emergency between 1975-77.

During the state of an emergency a person can be detained without following any proper procedure or be detained without any trial for a number of months or even years. Therefore, care should be taken to see that the executive authorities do not abuse the power of detention.

19.7 Fundamental Rights, Parliament and the Supreme Court

Ever since the inauguration of the Constitution, there has been a conflict between the Parliament which has sought to amend the Fundamental Rights in order to give effect to some Directive Principles, and the courts which are keen to uphold the basic rights of the people.

Through a series of Constitutional Amendments like the 1st, 4th, 17th, 24th, 25th, 42nd and the 44th Acts Parliament sought to remove the hurdles created by Fundamental Rights in the implementation of the Directive Principles.

However, the Supreme Court, through a number of judgements starting with the Champakam - Dorairajan case till its verdict in the Minerva Mills dispute, consistently held the view that the Directive Principles or any other consideration cannot give the Parliament the right to abridge the Fundamental Rights.

In 1967 through the Golaknath case the Supreme Court ruled that the Fundamental Rights could not be amended by Parliament, and that if Parliament thought it fit enough to do so, it must convene a Constituent Assembly which alone was competent to undertake such a procedure.

In the Keshavanada Bharati Vs. the State of Kerala case, the Supreme Court held that the Parliament cannot amend the basic structure of the Constitution. By implication the court considered the Fundamental Rights as part of the basic structure of the Constitution.

The above judgements created a lot of controversy. Opinion, with regard to the sacrosanct nature of Fundamental Rights, is sharply divided. Some, particularly belonging to the ruling Congress-I, and the so-called progressive minded people, argued that Parliament, being the representative of the people has the right to amend Fundamental Rights.

Those who support Parliament in this regard advance the following arguments:

1. Article 368 confers on Parliament the right to amend the Constitution. Since the Constitution does not say anywhere that such and such Articles are beyond any amendment. Parliament can amend any provision, including those of the Fundamental Rights.
2. Parliament, being the elected representative of the people can exercise the sovereign power of amending the Constitution, which includes the Fundamental Rights.
3. Since the government is formed by a party on the basis of the mandate it has received from the people, it is only natural that Parliament should legislate on the policies of the party in power. Therefore, Fundamental Rights which are only negative in nature, should not come in the way of the larger interests of the people represented by Parliament.

However, those who consider the Fundamental Rights as supreme and inviolable, put forward the following arguments in support of their stand.

1. Our Constitution considers the Fundamental Rights as the permissible means to achieve the ends of the Directive Principles. These rights constitute the core of the democratic system which should not be altered or destroyed in the name of public welfare.
2. Since the Constitution itself provides the Fundamental Rights they are the unalterable part of the Constitution. Hence they are part and parcel of the basic law of the land.
3. As the parliament is a creature of the Constitution it cannot alter or destroy its creator.
4. Parliament is only temporary in the sense that it has a fixed tenure. Therefore, Parliament cannot claim or usurp any authority of the people.

5. The basic freedom of the people should not be left to the whims and vagaries of the legislative majorities.

19.8 Summing Up

In the final analysis the Fundamental Rights, despite the Constitutional guarantees, remain in force so long as the people want to enjoy them. As has been observed no law can make the people enjoy their freedom., if they do not want it and, no law can deny liberty to the people if they really want it.

Because of poverty, unemployment, illiteracy and ignorance, a majority of people today are giving less importance to freedom compared to economic equality. Therefore, what we can say in conclusion is that freedom is essentially the making of an individual while the Constitution is only a skeleton of rules and regulations which cannot be implemented without the will and determination of the people.

19.9 Suggested Readings

Robert Hardgrave : India: Government and Politics in a developing Nation.

19.10 Model Questions

I Answer the following questions in about 30 lines

1. Examine the importance of the Fundamental Rights in a democratic polity.
2. Are the Fundamental Rights provided in the Indian Constitution absolute?
3. Examine the special features of the Fundamental Rights.
4. Examine the importance of the Right to Constitutional Remedies.

II. Answer the following questions in about 15 lines

1. Explain the evolution of the Fundamental Rights in India.
2. Describe the seven rights that ensure the freedom of the citizen.
3. Write briefly on the Right to Property.
4. Examine the position of the Fundamental Rights during the emergency.

Dr V.Krishna Rao

Unit-20: Civil Liberties

Contents

- 20.0 Objectives
- 20.1 Introduction
- 20.2 Conceptual Origin
- 20.3 U.N. and Human Rights
- 20.4 Indian National Congress and Civil Liberties
- 20.5 Motilal Nehru Report and Civil Liberties
- 20.6 First Elections Under 1955 Act and Civil Liberties
- 20.7 Madras Civil Liberties Union
- 20.8 Civil Liberties and Constituent Assembly
- 20.9 Civil Liberties and Indian Constitution
- 20.10 Liberties and Restraints
- 20.11 Liberties and Civil Servants
- 20.12 Right to Assemble
- 20.13 Right to form Associations
- 20.14 Right to Reside and Settle
- 20.15 Right to hold and dispose property
- 20.16 Preventive Detention
- 20.17 Civil Liberties and 1962 Emergency
- 20.18 Maintenance of Internal Security Act 1971
- 20.19 Internal Emergency 1975 & Civil Liberties
- 20.20 Civil Liberties and Janata Period
- 20.21 The National Security Act
- 20.22 National Security Act (2nd Amendment)
- 20.23 Emergency of Civil Liberties grounds in India
 - 20.23.1 PUOA
 - 20.23.2 All India Federation of Organisations for Democratic Rights
- 20.24 Summing Up
- 20.25 Suggested Reading
- 20.26 Model Questions

20.0 Objectives

After going through the unit you will be able to:

- * Sketch the evolution of civil liberties
- * Note the place in the Indian Constitution and
- * Identify the changing perspectives on civil liberties

20.1 Introduction

The quest for liberty is inherent in the nature of man. The liberal theory of freedom is a key concept of what we call constitutionalism which emerged in modern times. An individual enjoys liberty or freedom, when his thoughts, speech, writings, movements, pursuits, occupation, mode of worship and way of living in general are not subject to unjust and arbitrary restraints of government.

20.2 Conceptual Origin

In order to understand what Civil Liberties are, it is necessary to go into their conceptual origins. Liberty is indeed a priceless possession for which mankind has sacrificed much. Nations have sung its praise and have placed it among the most valuable of assets. History has records of many battles and the shedding of much blood all over the world for attaining liberty. Rousseau goes to the extent of saying that, to renounce liberty is to renounce being a man, to surrender the rights of humanity and even its duties.

The aim of the State is the conservation of natural rights of man. These rights are liberty, property, security, and resistance to oppression" lays down an Article of the French Constitution (1789).

The concept of civil rights first arose in a clear form out of the French Revolution. In their fight against the Bastille where countless men were made to suffer and die without justice and without law. The French Revolution gave to the world, the rights of man. "The aim of all political associations (all states) is the conservation of natural rights of man. These rights are liberty, property, security and resistance to oppression.

Sovereignty resides in the nation; No group or individual dare exercise authority which does not emanate expressly from the nation; Law is an expression of general will. All citizens are equally admissible to public employment and dignities. No man may be accused, arrested or detained out of the scope of the law and the prescribed forms and the free communication of idea and opinions is a precious right of man; are some of the articles laid down by the French Constitution of 1789.

'Law as an expression of the general will' was laid down in an Article of the 1789 French Constitution. Civil liberties unions of the world have accepted democratic control over the government and even the Republican form as one of their agitational planks.

Civil Liberty embraces the rights of the citizen with regard to security both of the person and of dwelling, to freedom of opinion and assembly, thought and organisation, to equal justice and control over the government and to release from political considerations.

The concept of Civil Liberties is an outcome of the struggle that the citizen has waged against his state. History reveals the struggle between the state-power and the citizen.

An analysis of the American and the French Constitutions and the English Bills of Rights, would show how abuse of human rights preceded the initiation of constitutionalism. The people had the Bastille, and on its ruins was reared the imposing structure of Civil Liberties.

The content of liberty is not static. It changes with the moving times, though "its large outlines may have a permanent character".

At the altar of liberty, individuals and countries have played and agreed to fight relentlessly to secure it. It was the love of liberty which provoked the people of England to revolt against the Stuarts. The American colonies rose against George III's oppressive government in England and Patrick Henry, the revolutionary leader, raised his voice in the American Colonies against the Britain and said: "Give me liberty or give me death."

The various revolutions, and movements in Europe were inspired by the strong urge to break the chains of restraints arbitrarily and unjustly bound around the hands and feed of the people by their ruthless rulers.

20.3 United Nations and Human Rights

The United Nations adopted in 1948 the historic Declaration of Human Rights. It is a Character of Civil Liberties and Human Rights. The Declaration contains a list of a wide range of Civil Liberties.

- Article: 1 All human beings are born free and equal in dignity and rights.
- Article: 2 Everyone is entitled to all rights and freedom set forth in this declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
- Article: 3 Everyone has the right to life, liberty and security of persons.
- Article: 4 No one shall be held in slavery or servitude

- Article: 5 No one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment.
- Article: 6 Everyone has the right to recognition everywhere as a person before the law.
- Article: 7 All are equal before the law and are entitled without any discrimination to equal protection of the law.
- Article: 8 Everyone has the right to an effective remedy by the competent national tribunals for acts violating the Fundamental Rights granted to him by the Constitution or by law.
- Article: 9 No one shall be subjected to arbitrary arrest, detention or exile.
- Article: 10 Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal in the determination of his rights and obligations and of criminal charges against him.

The concept of liberty, as seen above, must be examined in its total perspective. Firstly, liberty, may have to be conceived as "freedom to do as one pleases."

John Stuart Mill also believes that "all restraint, Qua restraint is an evil."

Secondly, a strong imposition of certain ways of behaviour is essential. As Laski puts it "imposition is essential to liberty since it makes for peace and peace is the condition of liberty."

Check Your Progress 1

Write down the importance of UN Declaration on the Human Rights:

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Consciousness of Civil Liberties can be traced to the works of Thomas Paine and John Stuart Mill, Vivian Derozio's inspired lectures on Paine, Locke, Hume and Bentham and Mill's Essay on Liberty were two of the most favourite books read by the educated Indians of the last four decades of the nineteenth Century.

The establishment of High Court in Calcutta, Bombay, and Madras in 1862 was an important landmark in the history of Civil Liberties in this country.

The western legal system also created a consciousness of Civil Liberties. The ideals behind Magna Carta, Petition of Rights and Bill of Rights sustained the continuous struggle for Civil Liberties.

20.4 Indian National Congress and Civil Liberty

The concept of Civil Liberties (which stems from individualism and liberalism) was a concept which the earlier Congressmen were wedded to. It revealed the attitude of the Congress towards individual rights and liberties. Between 1885 and 1947 the Indian National Congress considered exercise of judicial functions by the officer of the Executive highly detrimental to the safety and liberty of Indians. A resolution was moved to this effect in 1886 during the second Session of the Indian National Congress. This Session also discussed the failure of justice resulting from the combination of the magisterial and judicial functions.

The third session of Indian National Congress held in Madras in 1887 declared that "it believed that the Government would effect the separation between the judiciary and the executive." There was a constant plea by the Indian National Congress in almost all the sessions to separate the judicial functions from the Executive.

The earlier leaders of the Congress believed in constitutional agitation. They expected that the British authorities would allow the Indians to enjoy various civil liberties. They felt that the utilitarian and liberal philosophy, the principles of Magna Carta and Bills of Rights would inspire the Britishers to share Civil Liberties. But this was not to be. The British authorities were caught in an incompatible position; on one hand the principles of civil liberties they professed and on the other their imperial designs.

The Rowlatt Act and the Jallianwala Bagh incidents convinced Mahatma Gandhi and a majority of Congressmen that they needed to offer passive resistance in-order to secure political and civil liberties.

The Congress expressed its opposition to the various Acts like the Criminal Law Amendment Act Part II and the Seditious Meeting Act. They demanded freedom of speech and association for themselves.

Nehru observed in his Presidential Address at the Lucknow Session of the Congress on 12 April 1936 "I have referred to the terrible suppression of Civil Liberties by the British Government in India. But in the States matters are even worse, and though we know that the real power behind these States is that of British Imperialism this tragic suppression of our brothers by their own countrymen is of painful significance."

20.5 Motilal Nehru Report and Civil Liberties

In 1928, the Congress convened an all-Parties Conference to lay down the basic principles of the future Constitution of India. Pandit Motilal Nehru was the Chairman. The Report, known as the Nehru Committee Report contained specific recommendations on the civil liberties of the people of India. These recommendations formed the basis of Fundamental Rights in the Constitution of India.

The 1930 Resolution of the Working Committee of the Congress contained a direct reference to Civil Liberties. The Resolution expressed the inalienable right of the Indian people to enjoy Civil Liberties especially the Right to Expression and Right to Association.

20.6 First Elections under 1935 Act and Civil Liberty

The Election Manifesto of the Indian National Congress on the eve of the first election under the Government of India Act of 1935 emphasised that the elected representatives would work for the establishment of Civil Liberties.

20.7 Madras Civil Liberties Union.

The Congress-dominated legislature in Madras passed the Madras Maintenance of the Public Safety Ordinance in 1947. This resulted in the formation of the Madras Civil Liberties Union, which in turn convened the Indian Civil Liberties Conference in Madras on 16th and 17th July, 1949. The Conference brought to surface the denial of personal freedom all over India.

Pandit Nehru made it clear that the policy of Civil Liberty ought to be reconciled with Public Safety.

20.8 Civil Liberties and the Constituent Assembly

A Report was prepared on the Rights of Freedom in which clause VIII was drafted as follows: "There shall be liberty for the exercise of the following rights subject to public order and morality or to the existence of grave emergency declared to be such by the Government of the Union or the Unit concerned whereby the security of the Union or the Unit, as the case may be, is threatened:

- A) The right of every citizen to freedom of speech and expression.
- B) The right of every citizen to assemble peacefully and without arms.
- C) The right of citizen to form associations or unions.

- D) The right of every citizen to reside and settle in any part of the Union, to acquire property and to follow any occupation, trade business or profession.

All the rights contained a sub-clause expressing reasonable restrictions.

20.9 Civil Liberties in Indian Constitution

The Indian Constituent Assembly embodied a list of Fundamental Rights in Part-III of the Constitution. It bore a close resemblance to the list of Fundamental Rights incorporated in the Nehru Report mentioned earlier.

By guaranteeing Fundamental Rights, the Constitution ensures the liberty of the individual.

Article 19 is said to be the key arch of individual liberties. It is the backbone of the Constitution of India. This Article guarantees to the citizens of India the enjoyment of certain civil liberties while they are free. All citizens shall have the right:-

- A) to freedom of speech and expression
- B) to assemble peacefully and without arms
- C) to form associations or unions
- D) to move freely throughout the territory of India
- E) to reside and settle in any part of the territory of India.
- F) to acquire, hold and dispose of property, and
- G) to practise any profession, or to carry on any occupation, trade or business

Article 19(1) guarantees certain Fundamental Rights, subject to the power of the State to impose restrictions on the exercise of these rights. Article 19 is not exhaustive in its enumeration. There may be many other personal liberties which a free man may exercise. Article 19 protects only some of the important aspects of personal liberty and the aspects not enumerated in Article 19 are guaranteed by Article 21 of the Constitution.

The Constitution makers firmly believed that liberty cannot be provided without limitations. It is wrong to suppose that Article 19 of the Constitution guarantees absolute Rights on the citizens of India. The liberty contemplated in the Constitution is ordered liberty and the freedom guaranteed by the Constitution is subject to important restrictions. These restrictions are imposed in the interest of the general welfare of society.

There cannot be any such thing as absolute uncontrolled liberty wholly free from restraint, for, that would lead to anarchy and disorder. The possession and enjoyment of all liberties are subject to such reasonable conditions as may be deemed by the governing authority of the country to be essential to the safety, health, peace, general order and moral welfare of the community. The constitution, therefore attempts to strike a balance between individual liberty and social control.

20.10 Liberties and restraints

Some of the liberties and the restraints placed upon them are:

Article 19(1) (a) guarantees Freedom of speech and expression.

The Freedom of speech and expression means the right to voice one's contentions and opinions freely, by word of mouth, writing, pictures, or in any other manner addressed to the eyes or the ears. It would thus include not only the Freedom of Press, but expression of one's ideas by any visible representation such as gestures and the like. Expression, naturally pre-supposes a second party to whom the ideas are expressed or communicated.

In short, Freedom of Expression includes the Freedom of propagation of ideas, their publication and circulation.

It is interesting to note that, unlike the American Constitution, Article 19(1)(a) does not expressly mention Freedom of the Press. But it is now an accepted fact that the Freedom of Speech and Expression included in the Freedom of Press.

The Freedom of speech and Expression does not confer an absolute right to speak or publish, without responsibility whatever one may choose or an unrestricted or unbridled license that gives immunity to every possible use of language, and prevents punishment for those who abuse this freedom.

The legislature can, under Article 19(2) impose restrictions on the Freedom of Speech and Expression on the following grounds:

- 1) Security of the State.
- 2) Friendly relations with foreign States
- 3) Public Order
- 4) Decency and morality.
- 5) Contempt of Court.
- 6) Defamation
- 7) Incitement to an offence.

All laws of libel, slander, contempt of court, or laws in respect of matters which offend decency and morality, are reaffirmed to be operative in spite of the individual right of the citizen to Freedom of speech and expression. Similarly, that right is subject to laws which prevent undermining the security of the State or against the activities which tend to overthrow the State.

Check Your Progress-2

What are the restrictions on Fundamental Rights?

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20.11 Liberties and Civil Servants

Restrictions of Freedom of speech and expression of civil servants are evident. Their liberty has been restricted in three ways. Rule 6 of the Conduct Rules lays down that "no government servant shall in any radio broadcast or in any document published anonymously or in any communication to the press, or in any alternative, make any statement of fact or utterance, make any statement of fact or opinion 1) which has adverse criticism of any current or recent policy or action of the Central Government or a State Government, or 2) which is capable of embarrassing the relations between Central Government and Government of any State, or iii) which is capable of embarrassing the relations between Central Government and Government of any foreign State, provided that nothing in his work shall apply to any statement in his official capacity or in due performance of the duties assigned to him." Similarly strict rules apply to all India Service, and Railway Service. The State Governments also model their service rules as laid down by the Government of India.

Freedom of the speech and of the Press form the basis of all democratic organisations, for without free political discussions no public education, so essential for proper functioning of the process of popular governments is possible. If democracy is thought of as a quality of life, as a political system in which the dignity of its members is protected, the freedom to hold and express beliefs is probably the most essential quality that such a free society ought to possess.

20.12 Right to assemble

Article 19(1) (b) constitutes an important Civil Liberty. All citizens have the right to assemble peacefully and without arms. This Right is merely a corollary of the Right to freedom of speech and expression. This Right in short is subject to reasonable restrictions in the interest of public order by present or future law.

The right to assemble can be curtailed (1) to protect the country's sovereignty and territorial integrity of (2) in the interest of public order.

20.13 Right to form associations or unions

The right to form associations or Unions is guaranteed by Article 19 (1)(c). The Right to form associations or unions includes also the right to maintain them. The restriction on this right must be reasonable and they must be in the interest of public order or morality. The Supreme Court held the "Fundamental Right to form association or union guaranteed by Article 19(1) (c) of the Constitution has such wide and varied scope for its exercise, and its curtailment is fraught with such potential restrictions in the religious, political and economic fields that vesting of the authority in the Executive to impose restrictions on such rights without allowing the grounds of such imposition, both in their factual aspects, to be duly tested in judicial inquiry is a strong element which should be taken into account in judging the reasonableness of restrictions imposed on the Fundamental Rights under Article 19(1) (c) V.C.Row Vs State of Madras 1952.

Right to move freely throughout the territory of India:

Article 19(1) (d) guarantees a basic Civil Liberty wherein a citizen has the right to move freely throughout the territory of India. This is a sacred right. The right is subjected to restrictions. It can be curtailed by government on two grounds: i) in the interest of the public and ii) for the protection of any scheduled tribe.

20.14 Right to reside and settle in any part of territory of India

All citizens have the right to reside and settle in any part of the territory of India under Article 19(1) (E). Restrictions to this Civil right is; i) imposed by law, ii) in the interest of the general public, and iii) for the protection of the interests of any scheduled tribe.

The freedom of choice in respect of profession cannot be given absolutely. This Civil liberty in its operative aspect is not allowed to degenerate into a licence. This right must be subject to any reasonable restriction imposed by the Executive in the interest of the public convenience.

20.15 Right to acquire hold and dispose of property

Under Article 19(1)(F) all citizens have the right to acquire, hold and dispose off property. Again we find restraints imposed by law on the exercise of the right in the interests of the general public for the protection of any schedule tribe, and also it is understood that a law authorising deprivation of property must be held to be violative of Article, 19(F), unless it satisfies the test of reasonableness required under Article 19(5). Hence the law under review was held unconstitutional as infringement of the property was guaranteed by Article 19(1) (F) and not by Article 19(5).

Right to freedom of profession, trade and business:

Article 19(1) (G) of the Constitution provided freedom to practice any profession, or to carry on any occupation trade or business.

Safeguard for life and liberty of person.

Article 21 says that no person, shall be deprived of his life or personal liberty except according to procedure established by law.

Safety of life and liberty of persons are two of the most essential things in any ordered society. The constitution assures this liberty to all. It has not been left to the whims of the Executive to rob a person of his personal liberty and put him in detention. Article 21 of the Constitution contains assurance for the safety of the life and liberty of a person. Such assurance is subject to an inherent limitation. The life and liberty of a person may be taken only in accordance with the procedure established by law, which means, that the executive has no power to take them away but they can be taken away in pursuance of an expression of the legislative will.

It is interesting to note that though there is a guarantee against executive excess there is no guarantee against legislative encroachment upon individual liberty.

The constitutional position in regard to various Civil Liberties as seen above shows that the Constitution imposes its own inherent limitations on Civil Liberties.

We will now discuss the various Ordinances, Acts, etc., as legal restrictions imposed upon the Civil Liberties, as enumerated in the Constitution:

20.16 Preventive Detention

Preventive Detention was first introduced by the British Government in 1880. It was used against political workers participating in the national movement.

The Indian Constitution too provides for preventive detention. The preventive Detention Act has become an integral part of the Constitution.

A person under preventive detention is kept in custody in the interest of public security or safety and not on account of the commission of any offence. The law for Preventive Detention is a special branch of law distinct from the general or common law. Article 22 contains two sets of principles, one applicable to arrest and detention under a law for Preventive Detention.

Lists of persons detained under MISA (Maintenance of Internal Security Act) which replaced the Preventive Detention Act and Defence of India Rules run into large numbers.

The grounds on which preventive detention has been resorted to are "defence of India, the security of India, the maintenance of public order, the security of state, relations (with foreign) powers and maintenance of supplies and services essential to community." Article 22 allows non-disclosure of facts to a detainee which the "authority considers to be against the public interest to disclose". In addition extraordinary powers are given to the Governors, under Article 371 in case of citizens belonging to Assam, Nagaland, Manipur, Hill areas and Sikkim. The Article 22 has been the subject of judicial interpretation several times. When the Preventive Detention Act was challenged by A.K.Gopalan vs State of Madras, the Supreme Court made the following remarks:

"The Preventive Detention Act was violating of the right conferred by Article 19(1)(d) of the Constitution, namely the right to move freely throughout the territory of India which was infringed.

2) The Act deprived a person of his liberty not in accordance with the procedure established by the law as provided by Article 21.

3) The Act was repugnant to the provisions of Article 22 and his detention therefore was mala fide.

The Preventive Detention Act can be the cause for the dangers to the nature of Civil Liberties. The most offensive character of the Act is that, it is meant to be used to detain a person even though no offence as yet has been proceeded against him.

The Preventive Act, continued to be on the Statute Book till 1970 and was re-enacted several times.

20.17 Civil Liberties and 1962 Emergency

The Emergency provisions came into operation for the first time on 26th October in the wake of the Chinese aggression. The President promulgated the Ordinance called the Defence of India Ordinance 1962. Subsequently it was repealed by the Defence of India Act 1962. Besides this wide-ranging instrument, the President of India on 3rd November 1962, moved Article 359 and declared by an order that the right conferred by Articles 21 and 22 of the Constitution has been suspended for the period during which the proclamation of Emergency was in force.

Gradually public opinion became more articulate and subsequently went against the Emergency.

In this context, the Supreme Court's Judgement on "the Defence of India Rules" in the famous Ram Manohar Lohia vs State of Bihar case is worth mentioning. The Supreme Court declared that the Defence of India Ordinance "drastically interferes with the personal liberty of the people".

20.18 Maintenance of Internal Security Act 1971

The Maintenance of Internal Security Act (MISA) 1971, was extended to the whole of India except the State of Jammu and Kashmir. The MISA was the recomposition of the Preventive Detention Act under a new name. The grounds of arrest were the same. Arrest was to be made subject to the satisfaction of the authorities. Justice Hidayatullah of Supreme Court attached a great importance to this "subjective satisfaction" which is "likely to choke the liberty of an individual". Besides the MISA, the following Acts; West Bengal Prevention of Foreign Activities Act 1970, Andhra Pradesh Suppression of Disturbances Act 1948, the Armed Forces (Special Power) Regulation Act of 1962, the Assam Maintenance of Public Order Act, 1953, the Travancore-Cochin Public Safety Measures Act, 1950; seem to be prejudicial to Civil Liberties.

20.19 Internal Emergency 1975 and Civil Liberties

During the 1975-77 Emergency Civil Liberties were totally eclipsed in India. By the end of 1975 Government of India promulgated three Ordinances seeking to abolish the Press Council, repeal the law which protected the publication of parliamentary proceedings, and prevent publication of objectionable matter in general.

Rights of citizens or any other persons in India to move the Court for enforcement of certain specified Civil Liberties and human rights were suspended. Even the Right of Habeas-Corpus was denied.

The Maintenance of Internal Security Act was strengthened by a Bill moved on 23rd July 1975. The amendment sought to remove the constitutional status of a right to personal liberty as existing in natural law or common law.

20.20 Civil Liberties and the Janata period

The Janata Government introduced the Code of Criminal Procedure (Amendment Act 1977) wherein Preventive Detention was going to be a part of the ordinary law of the land. This measure was later

withdrawn. The Janata Government felt the need for the Preventive Detention Act as an essential instrument for maintenance of law and order. Public pressure prevented such a measure. In 1979 the caretaker Prime Minister introduced the preventive Detention Ordinance, which was an improved version of the earlier MISA.

20.21 The National Security Act.

The National Security Ordinance was brought in 1980, when Mrs. Gandhi returned to power. This Ordinance along with the Essential Services Maintenance Act 1981 was made into an Act.

The National Security Act gives wide powers to the Executive to put the citizen behind bars, even without disclosing the facts of detention if the Executive "considers it to be against the public interest to disclose. A person can be kept in detention indefinitely even without disclosing the facts of detention. Further, no suit or other legal proceedings shall lie against the Central Government and the State Government, and no suit, prosecution or other legal proceedings shall lie against any person, for anything in good faith done or intended to be done in pursuance of this Act."

Coming to the Essential Services, Act, the scope of the definition of the word Essential is so wide that it is all-pervading. Under the Essential Services Act, no strike is possible. This Act also overrides other laws when there is inconsistency with the Industrial Disputes Act.

The Government is contemplating these legislations:

- 1) Amendment to Industrial Disputes Act, 1947 (IDA)
- 2) Amendment to Indian Trade Union Act, 1926 (IUTA)
- 3) The Hospitals and other Institutions (Settlement of Disputes) Bill

The measures would undermine Civil Liberties greatly.

20.22 National Security Act (2nd Amendment)

A new Ordinance (April, 1984) sought to amend the National Security Act in its application to the State of Punjab and the Union Territory of Chandigarh.

A detention order made under the NSA will not be deemed to be invalid merely because one or some of the grounds of detention are vague or false. The period of detention is extended to one year anywhere in the country and two years in Punjab. The number of days one can be held without being produced before a Judge is increased from 15 to 30 days. In short, the Ordinance makes it impossible for the detainee to challenge his detention.

20.23 The Emergence of Civil Liberties Groups in India

Civil Liberties organisations as they stand today have mostly emerged during and after the 1975 Emergency. Not that these organisations did not exist before the emergency. They did appear in the States of Andhra Pradesh, West Bengal, Orissa, Kerala but these organisations articulated their positive role only after the suppression of human rights during the 1975 Emergency. Most of these organisations maintain the regional character and are not a part of a single national all India Civil Liberties movement.

The first, all-India Civil Liberties organisation, the People's Union for Civil Liberties and Democratic Right (PUCL) was formed during the later phase of the Emergency in October 1976. Its immediate purpose was to build public opinion on the question of lifting the Emergency and the restoration and widening of Civil Liberties and the democratic rights of the people.

The PUCL was formed when the 42nd Amendment was being drafted. It was formed through a convention held in New Delhi in 1976, presided over by Acharya J.B. Kriplani, Jai Prakash Narayan was subsequently the founder President, and Tarkunde its working President. The PUCL was formed with the objective of

arousing the people to the danger of the 42nd Amendment and "to build up a massive and irresistible public opinion for the restoration and widening of civil liberties and democratic rights." the organisation worked without any primary membership. However the committees worked on the basis of consensus. After the revocation of Emergency, the PUCL continued to be active in Andhra Pradesh, Delhi, Maharashtra, Rajasthan and Madhya Pradesh.

The PUCL has conceptualised the nature of civil liberties as those fundamental rights defined in, and granted by, the Constitution, which relate to just civil liberties and democratic rights. The granting of these liberties and rights are to be attained through the working of the Directive Principles of State Policy.

Aims and Objectives: To restore, protect and extend Civil Liberties and the democratic rights of the people of India, as well as to support the movement for civil liberties and democratic rights elsewhere in the world.

PUCL strives to educate, mobilise and organise the people on the question of the civil liberties and democratic rights, and to use every legitimate method towards this end. Its primary role is to initiate action on the broader issues of restoration, protection and extension of civil liberties and democratic rights which effect the people India, or other persons in the World.

20.23.1 Peoples Union for Democratic Rights (PUDR)

The PUDR came into existence as the Delhi Unit of people's Union for civil Liberties and Democratic Rights (PUCL & DR) in 1977.

In 1981, the Delhi Unit of PUCL and DR came out of its own constitution and called itself the People Union for Democratic Rights. (PUDR). The organisation also emphasised the social contents of the Democratic rights, apart from merely concerning itself with their constitutional significance.

Its primary role is to initiate action on the broader issues of the protection, extension and implementation of civil liberties and democratic rights which effect the people.

Its supplementary role is to lend support to all struggles for democratic rights.

20.23.2 All India Federation for Organisation for Democratic Rights and Civil Liberties (AIFDR)

This was formed out of the three years of conscious contact and discussions between organisations that had a struggle - oriented approach towards the democratic rights movement. These organisations are part of the movement for civil liberties too, but are convinced that the democratic rights needed the people.

The first Conference of AIFDR was held in 1982 at Andhra Pradesh. The constituent organisation of AIFDR are

1. Association for Democratic Rights (AFDR) Punjab.
2. AIFDR - West Bengal Unit.
3. Cantantrick Adhikar Suraksha Samiti, Orissa.
4. Janadhipathya Avakasa Samrakshana Samithi, Kerala.
5. Lokshani Hakk Sunghatana, Maharashtra.
6. Organisation for Protection of Democratic Rights ODPR (Andhra Pradesh).
7. People's Union for Civil Liberties and Democratic Rights, (PUCLDR) Rajasthan.

20.23.3 The Committee for the protection of Democratic Rights (CPDR)

The Committee for the Protection of Democratic Rights (CPDR) came into existence in April, 1977, as part of outburst against emergency rule. It is a Bombay based organisation and not affiliated to any political party. Its chief aims are to create in citizens an awareness of their rights, investigate cases of infringement

of rights and support the ongoing struggle of the people for justice and a better life.

The CPDR believes that "democratic rights that exist in the Constitution can be realised only by a vigilant movement and expression of the mass of the people.

There are some regional organisations whose task is to enhance the democratic consciousness of citizens. They are AFDR Punjab, Lok Adhikar Sangh Gujarat, Andhra Pradesh Civil Liberties Committee (APCL) Andhra Pradesh, APDR Calcutta, ODPR (Andhra Pradesh).

20.24 Summing Up

The above analysis reveals that civil liberties, as enshrined in the Constitution, and is examined in their operational aspect suffer from inherent legal constraints. These impediments, get further strengthened by the ongoing changing political process, especially the one we witnessed during the 1975 upheaval. This was the starting point at which various organisations emerged to safeguard Civil Liberties.

20.25 Suggested Readings

Norman D Palmer : Indian Political System

20.26 Model Questions

I. Answer the following questions in about 30 lines.

1. Examine the concept of Civil liberty.
2. The Content of liberty is not static, it changes with the moving time. Comment.
3. Describe the Civil liberties and Human Rights which have been embodied in the historic United Nations Declaration of Human Rights (1948).
4. Trace the origin of Civil liberties in India
5. Examine Civil liberties as enshrined in the Indian Constitution.
6. What are the constraints imposed upon Civil Liberties in India
7. Examine the factors responsible for the emergence of Civil liberties groups in India.

II Answer the following questions in about 15 lines.

1. Role of Indian Congress and Civil liberty.
2. Motilal Nehru and Civil Liberties.
3. Civil Liberty and the Constituent Assembly.
4. Liberties and Civil Servants.
5. Preventive Detention Act.
6. Civil Liberties and the 1975 Emergency.

-Prof. F.D.Vakil

Unit- 21 : Directive Principles : The Changing Perspectives

Contents

- 21.0 Objectives
 - 21.1 Introduction
 - 21.2 Nature
 - 21.3 Enumeration of Directive Principles
 - 21.3.1 Socialistic
 - 21.3.2 Liberal
 - 21.3.3 Gandhian
 - 21.4 Politicisation of Directive Principles
 - 21.5 Evaluation
 - 21.6 Summing Up
 - 21.7 Suggested Readings
 - 21.8 Model Questions
-

21.0 Objectives

After going through the unit you will be able to:

- * Explain the basic ideas behind the Directive Principles
 - * List the principles and
 - * Evaluate their present position
-

21.1 Introduction

The framers of the Constitution not only established a political system for the governance of the country but also set before the government some objectives which are to be realised for the benefit of the people. India being a colony of the Britishers for more than two hundred years could not remain content with mere political independence alone. The government of free India had to solve several basic problems, such as unemployment, poverty, illiteracy. Otherwise political independence will be of no consequence for a people who are socially traditional and economically poor. Therefore, the goals of India's Sovereign Democratic Republic have been defined in the Preamble to the Constitution as providing to people liberty of thought, expression, faith and worship, justice - social, economic, and political - equality of opportunity and status and fraternity consisting the dignity and status of the individual.

During the freedom movement economic and social goals received little importance. Only political independence was given top priority. Then immediately after independence the government faced the problems like providing employment opportunities, educational facilities etc. to all the people. These are possible only through a rapid economic development. All these measures required channelization of resources through the States.

Most of the members of the Constituent Assembly received English education and were also influenced by the liberal traditions of British democracy. As such they could not make the state a powerful institution to achieve the afore-mentioned goals at the expense of the political democracy. Therefore, they sought to strike a via media. While political democracy is consolidated by providing fundamental rights, economic and social policies are sought to be implemented through the participation and patronage of the State. The objectives to be achieved by the State were listed out in Part IV of the Constitution under the title "Directive Principles of the State Policy."

21.2 Nature of the Directive Principles

The Directive principles constitute very comprehensive political, social and economic programmes for a modern democratic state. In enlisting these directives the framers of the Constitution wanted to give certain directives to the future Legislature and the Executive to show in what manner they have to execute the legislative and executive power.

Since the directive principles are not mandatory in nature, it is not obligatory for the Legislature and the Executive to give effect to them. Some consider the directive principles as pious declarations. However, in course of time they have become the real yardstick to measure the social and economic progress of the people. The success or failure of a government depends on the extent to which they have put the directives into practice.

Although the directive principles are a part of the Constitution they are not binding on the Executive and the Legislature. The government except in the case of fundamental rights, is under no obligation to implement them. They do not contain any time-bound programmes. On the other hand, they are advisory in nature in the sense, that the state will implement them as and when the resources permit.

Unlike the fundamental rights the directive principles cannot be enforced. They are non-justiciable. The courts, as such, cannot entertain any plea against the non-implementation of directive principles.

If the directive principles are not mandatory, and if they cannot be enforced, why should they be included in the Constitution. The purpose is to remind constantly the Executive and the Legislature of the goals to be achieved.

21.3 Enumeration of Directive Principles

The directive principles of state policy can be broadly classified into three categories viz., (a) Socialistic, (b) Liberal, and (c) Gandhian.

21.3.1 Socialistic

1. To secure and protect a social order which stands for the welfare of the people.
2. To direct its policy towards securing adequate means of livelihood to all citizens.
3. To distribute properly the material resources of the community for the common good
4. To prevent the concentration of wealth to the common detriment.
5. To give equal pay for equal work for both men and women.
6. To protect the strength and health of workers.
7. To protect children and youth against exploitation.
8. To secure the right to work, education and public assistance in case of unemployed, sick, etc.
9. To secure just and human conditions of work and maternity relief.
10. To secure proper wages, a decent standard of life, leisure and cultural opportunities for people.

Check Your Progress-1

1. Name the categories of Directive Principles?

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21.3.2 Liberal

1. To Secure a uniform civil code applicable to the entire country.
2. To provide free and compulsory education to all children under fourteen years.
3. To bring about separation of the Judiciary from the Executive.
4. To endeavour to secure (i) the promotion of international peace and security, (ii) the maintenance of just and honourable relations with all nations, (iii) the settlement of international disputes through arbitration.

21.3.3 Gandhian

1. To organise village panchayats and endow them with suitable powers.
2. To prohibit liquor.
3. To promote cottage industries in rural areas.
4. To promote the economic and the educational interests of the weaker sections, particularly that of the scheduled castes and the scheduled tribes.
5. To organise agriculture and animal husbandry on modern scientific lines.
6. To prohibit cow slaughter.

Apart from the above mentioned directives, the 42nd Amendment to the Constitution added the following new directive principles:

1. Free legal aid to economically backward classes.
2. Participation of workers in the management of organisations in any industry.
3. Protection and improvement of environment.
4. Safeguarding of forests and wild life.

21.4 Politicisation of Directive Principles.

The implementation of Directive Principles did not attract much political and legal controversy in 1950s partly because of their democratic and social nature. For example directives like the implementation of prohibition (banning the consumption of liquor), introduction of Panchayat Raj system, and separation of Judiciary from Executive did not create any tensions.

However, the situation had undergone a radical change since 1967. The electoral defeat of Congress party in a number of states and its reduced strength in the Lok Sabha had made the Congress leadership switch over to more radical policies. Some of them were bank nationalisation, abolition of the privileges and purses of princes, speedy implementation of land reforms, adoption of reservation laws and rules. This step necessitated a series of constitutional amendments.

Another significant point one should remember in this context is that the Congress party adopted more radical economic policies whenever it felt insecure in retaining power and mobilising electoral support. The best illustration in this regard was the Prime Minister's 20-point Economic Programme announced in the wake of the imposition of the internal emergency in 1975.

Moreover, today all political parties including the Congress have come to the conclusion that in order to win the support of the masses the adoption of radical policies and chanting of socialist slogans by all the political parties is inevitable. Hence the unanimous support to the reservation policy.

As long as the vast majority of the people are denied the basic amenities and as long as their expectations are aroused by the political parties through their tall promises the Directive Principles are bound to receive national attention. They remain important in spite of judicial verdicts as it is evident in the *Minerva Mills* case.

21.5 Evaluation of the Directive Principles

The Directive Principles, as we have discussed in the earlier lesson, are at the best pious declarations. Their ineffectiveness has been criticised in many ways. Let us briefly sum up the main criticisms against the Directive Principles.

Lack of Legal Force: Since the directive principles impose no legal obligations, they are superfluous.

Vague: It is also said that these directives are very vague and do not reflect any particular philosophy or ideology.

Unsound: Some of these principles are unsound. For instance, take the case of prohibition. If it is implemented faithfully it drains the national economy, deprives the states of huge revenues and make them spend crores of rupees in maintaining a department for the implementation of prohibition policy.

Check your Progress - 2

Since when did the Directive Principles acquired Political tone?

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(See Para 21.4)

No means specified for implementation: No mention has been made in the Constitution as to how to implement these directive principles.

Constant source of litigation: Ever since the promulgation of the Constitution the implementation of the Directive Principles has come into conflict with the Fundamental Rights and several judgements of the Supreme Court have only led to the non-implementation of these directives.

Despite the drawback and the constitutional problems in implementing the directive principles, their importance in the context of our socio-economic problems cannot be minimised.

21.6 Summing Up

We cannot deny the importance and the urgent need for the implementation of the Directive Principles whose objectives are bridging the gap between the rich and the poor, securing for the people proper wages and extending free and compulsory education. Rapid industrialisation and the extension of educational facilities are the two main features of modernisation. They cannot be achieved in a country, like India where the people are socially backward and economically poor only without the State participation.

The purpose of freedom is not only to secure free action and movement for the individual, but also to limit the authority of the State. But any expansion of the state activity is not possible without extending its powers and the extension of the state powers will certainly reduce or affect the freedom of the people. But when we take an over all view we have to agree to the quicker implementation of the directive principles even at the cost of fundamental rights. This is because without proper economic and social environment the basic rights enshrined in the Constitution remain the goals distant for the vast majority who live below the subsistence level.

In conclusion we cannot but agree with Herold J. Laski who said that "by Liberty I mean that set of social conditions without which no man can call himself a free citizen". If the directive principles are implemented properly and faithfully, they would create the social environment as suggested by Laski for a freeman.

21.7 Suggested Readings

1. M.V. Pylee : The Indian Constitution
2. Granville Austin : Indian Constitution: A corner stone of the Nation

21.8 Model Questions

I Answer the following questions in about 30 lines

1. Critically examine the nature and importance of the Directive Principles.
2. The Directive Principles are but pious declarations. Discuss the statement in the light of the politicisation of the Directive Principles

II Answer the following questions in 15 about lines

1. What are the various Gandhian ideals enshrined in our Constitution
2. Write a note on the politicisation of the Directive Principles
3. Mention the socialist ideals incorporated in the Directive Principles.

— Dr V. Krishna Rao

Block - V : POLITICS IN INDIA

Unit - 22 Problems of Party Politics in India

Contents

- 22.0 Objectives
- 22.1 Introduction
- 22.2 Broad based congress
- 22.3 Nature of Party system
- 22.4 Summing Up
- 22.5 Suggested Readings
- 22.6 Model Questions

22.0 Objectives

After going through this unit you will be able to :

- * Explain the problems of party politics in India. The nature evolution and role of party system are discussed with reference to Indian political process. The problems of theorising party system as an operational part of Indian political system and its impact on the functioning of Indian policy are also covered. The ideological thrust or personality factors or primordial considerations which have an impact on the parties in India are focussed in this lesson.

22.1 Introduction

The emphasis on the study of political parties was placed by Maurie Duverger and Sigmund Neumann in the early fifties. According to S Neumann, we may define political party generally as "the articulate organization of society's active political agents, those who are concerned with the control of governmental power and who compete for popular support with another group or groups holding divergent views. As such, it is the great intermediary which links social forces and ideologies with official governmental institutions and relates them to political action within the larger political community". While referring to party system in India, Norman D Palmer observed "political scientists throughout the world are divided in their opinions on the importance of parties in a democracy, but the fact remains that the parties do exist, and play vital roles, in all modern democratic states, and indeed in most states, whatever be their ideological orientation. If India is to survive as a state moving generally in the democratic direction, it must evolve a healthier party system or develop some effective alternative to parties".

Political parties exist either covertly or overtly in all the countries. The functions of a representative government by and large depend on the role of political parties. In fact, in all the modern democracies, political parties do play a vital and decisive part in the articulation of public opinion and electoral process by providing legitimacy to the public policies.

Political parties are an extra-constitutional growth. This means that they are not established or created by or under the constitution. In spite of this they exist, operate and influence the politics. For the first time well organised political parties have originated in England during the seventeenth and the eighteenth centuries. They were called the "Wighs" and "Tories". These were the forerunners of the liberal and the conservative parties. Similarly in the U S A a two-party system evolved, as the Republican and the Democratic parties. Therefore in the West we find a long process of evolution of political parties. Further the social forces polarised themselves into the formation of political parties which reflected the class interests in the western democracies.

The establishment of the British rule in India provided climate for the formation of political parties in India. Therefore, in the pre-Independence period itself political parties originated and developed. In the year 1885 the Indian National Congress was established by A.O. Hume for articulating and protecting the interests of the educated Indians. This has provided an opportunity for the articulated sections of India to participate in the freedom movement. Later the Indian National Congress had become the vanguard of the national movement.

The leadership of the Indian National Congress was initially held by the Moderates and then by the Extremists and finally by Gandhiji. Since the Indian National Congress was the only organisation providing a broad platform, its composition and character reflected the pluralistic forces of the Indian society, which were often conflicting. This pluralistic character however, sustained the goal of our national independence, as its sole aim was to liberate the country from the British rule.

22.2 Broad Based congress

After independence the Indian National Congress which was hitherto a broad national organisation converted itself into a political party. In spite of the changed situation and context, the Congress continued to have the same pluralistic character. It consisted of leftists, capitalists, socialists, communal and secular forces. As Prof Jajini Kothari has pointed out, Congress is an amorphous and umbrella organisation, which accommodates all types of forces". This accommodation of diverse interests give scope for dissent from within. Hence, its twin functions are, 'accommodation and dissention'. Thus it is evident that the Congress party has opposition, within itself which gives the strength and vigour of the opposition parties, denying them the role of an effective opposition.

22.3 Nature of the Party System

It is difficult to describe precisely the nature of Indian party system, because of the complexity of the Indian society.

India does not fall into the category of England and USA, where stable two-party system has developed. In India on the other hand two-party system has not yet been developed even though for a brief period of three years (1977-1979) the emergence of the Janata party gave the impression that a two-party system was on the anvil.

However, the Indian party system cannot be described as 'One Party System' as is the case with the USSR, China, and Yugoslavia where virtually the communist parties dominate and eliminated all meaningful and effective opposition, and non-communist parties cannot capture power through the existing political process. They are considered to be irrelevant in view of the abolition of the class. but in India, there are no such restrictions for the formation of parties.

It may be stated that the Indian Party System has more resemblance with the French and Italian political systems where multi-parties function. It is a well established fact that multi-party system has an inherent tendency towards political instability. This tendency was amply demonstrated in France and Italy. Paradoxically this situation did not prevail in the case of Indian multi-party system. Because, India had always, a dominant party which managed to retain the seats of power both at the Centre and the States. For instance, right from 1952 to 1967 the Congress party had secured comfortable and stable majorities at the Centre and the States. Only for a short span of three years (1967-70) Congress party experienced an uncomfortable position. But in the mid-term poll to the Lok Sabha in 1971 the Congress party captured more than two-thirds majority which was followed by impressive majorities for it in 1972 Assembly elections. This has continued till 1977 when the Janata party came into existence. The newly formed Janata party, which was often described as a coalition of parties, disintegrated and finally collapsed, due to internal conflicts. Again in the Seventh Lok Sabha elections in 1980, Congress was voted to power with a landslide majority. This has re-established the uni-party dominance once again. Therefore, it can be said that Indian party system is multiparty system with a distinct character of uni-party dominance which was not seen in France and Italy.

Another salient feature of Indian party system is the existence of various types of parties. There are national, or all-India parties having roots relatively in different parts of the country. They are Congress, Bharatiya Janata Party, Communist parties, Lok Dal, Janata Party etc. Besides there are Regional parties like Dravida Munnetra Kazhagam (DMK), All-India Anna Dravida Munnetra Kazhagam, (AIADMK),

National Conference, Akali Dal, Maharashtra Wadi Gomntak Party, and Telugudesam party. These regional parties confine their influence and area of operation to their respective States. Some of the regional parties have been retaining power for a long time like the DMK, AIADMK and the National Conference. These parties have also contested the parliamentary elections and won sizable number of seats from their States, but surprisingly could not challenge the stability of the Congress party at the national level.

Usually political parties try to build up cadres by recruiting members into their fold. These cadres carry the policies and programmes in order to mobilise public support. In the context of Indian party system it is widely believed that there are no cadre-based parties. They are being described in fact as leader-based parties. Most of the parties in India, with the exception of the Communist parties, and the Bharatiya Janata Party, have no committed cadres of their own to work for the party. Only at the time of elections, volunteers are recruited to work for their parties.

Another dominant and striking feature of Indian party system is personality factor or the charisma of leaders. Parties are known by the individuals rather than the programmes and ideologies, like Congress (I), Congress (S), Lok Dal (C), (S) AIADMK, TDP, etc., where individual leader's names are associated with the parties. During the Nehru era the Congress party was symbolised as the party of Nehru. After Mrs. Gandhi rose to power the Congress came to be totally identified with her personality. So is the case with other parties like the Lok Dal, the AIADMK and Telugu Desam, which are identified with Charan Singh, M.G. Ramachandran, and N.T. Rama Rao respectively. In fact this particular process of personality-oriented politics is gaining ascendancy in Indian politics. Hence, personality factors have an overwhelming influence on the formation and functioning of political parties in India.

The ideological dimension in Indian party system is given least prominence. All the parties proclaim democracy, secularism, socialism, upliftment of weaker sections and backward classes. In spite of this, process of social polarisation in terms of class consciousness and class identification has not yet emerged. This makes it difficult to locate the social bases of the political parties in India. Politicisation of caste partly explains for the lack of ideological polarisation. Even political parties are exploiting caste factor to their advantage.

On the economic front, poverty, un-employment, inequality continue unabated in spite of party politics in India. Parties are unable to mobilise the people in the direction of socio-economic transformation. This may be considered to be a major failure of party system in India. Even the communist parties like C.P.I. and C.P.M. have not yet succeeded in developing a large mass-base. A few extremist factions of the Communist parties like C.P.I (M.L) have taken to extra-constitutional methods of bringing about the desired changes. The organisation and eruption of Maoist groups is reflective of the dissatisfaction with the performance of the lawful political parties.

The problems of development poses a threat to the party system in India. What Myron Weiner describes as, 'politics in scarcity', has come to dominate the functioning of parties in India. The problems of regionalism, communalism, (communal and regional parties) can also be viewed from the same point of view. Regional and inter-regional differences devoid of economic integration lead to the rise of regional parties and separatistic tendencies.

22.4 Summing up

Political parties are existing in both pre and post independence periods. After gaining independence, Congress party remained a dominant party. During the Nehru era Congress party had enjoyed comfortable and stable position. During Mrs. Gandhi's era (1970-77) Congress remained unshakable and enjoyed solid support. The breakdown of uni-party dominance was witnessed both in 1967 and 1977.

The opposition parties in India proved to be ineffective in providing an alternative to Congress. The single opportunity that opposition parties could get in 1977 did not last long, because of internal dissensions. The

failure of national opposition parties to provide a viable alternative to the Congress is leading to the formation and strengthening of the regional parties.

The personality factors, lack of ideological orientation and lack of social polarisation are the main impediments in the formation of a healthy two-party system. If this trend continues unabated, it may pose a challenge for integrated India.

22.5 Suggested Readings

- | | | | |
|-----|----------------|---|--|
| (1) | Myron Weiner | : | Party Politics in India : The Development of Multi-Party System. |
| (2) | Horst Hartmann | : | Political Parties in India. |
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22.6 Model Questions

I. Answer the following questions in about 30 lines each:

1. "There are political parties in India but not party System"- Example
2. Explain the role of personality factors in Indian Party system.
3. What is the role of ideology in Indian Political Parties.

II. Answer the following questions in about 15 lines each :

1. Nature of Indian party System.
2. Party System during British rule.
3. Prospects of two party system.

Dr V.Ravindra Shasthry.

Unit-23: Political Parties : National

Contents

- 23.0 Objectives
- 23.1 Introduction
- 23.2 Congress Party
- 23.3 Janata Party
- 23.4 Bharateeya Janata Party
- 23.5 Bharateeya Lok Dal
- 23.6 Left Parties
 - 23.6.1 Communist Party of India (CPI)
 - 23.6.2 Communist Party of India (Marxist)
 - 23.6.3 Communist Party of India (M.L)
- 23.7 Summing Up
- 23.8 Suggested Readings
- 23.9 Model Questions

23.0 Objectives

After going through this unit you would be able to:

- * Explain the origin, splits, ideologies of major political parties and
- * List the political parties

23.1 Introduction

At the outset, a clear-cut distinction has to be drawn between a national party and a regional party for a proper understanding. A national party is one in different parts of India and with representation (either large or small). Further it should project national perspective in terms of social, economic, national and international problems. Its perception should be with the national issues rather than a particular region or State. Contrary to it, a regional party is one which is limited and confined to a particular region or State without having any base or role in other States of India. Similarly, there is also a marked distinction between a secular party and non-secular or communal party. A secular party perceives the socio-economic or other problems from a non-religious and non-sectarian angle. Besides the membership of the party is open to all people irrespective of communal and religious differences. A non-secular party is one which combines religion and politics and makes the religion as the basis for the party and its ideology. The membership of such a party is mostly restricted to the members of the same communities.

In India, we have and had both national-secular and non-secular parties. The national-secular parties include Congress, Janata, BJP, Lok Dal, CPI, CPM, etc. Similarly, the Akali Dal, the Indian Union Muslim League, Republican Party (Ambedkarite) Hill State People's Democratic party, etc., are considered to be non-secular parties. However, it is difficult to cite precisely as to which party is really non-secular as all of them claim to be secular.

23.2 Congress Party

On December 28, 1885 the Indian National Congress was established by A.O.Hume with a view of representing the interests of Indians to the British Government. The same Congress became an instrument of national movement. It was more a national movement than a party. It had, in addition, acted as a pressure group of Indians during the British period. As Prof.Rajni Kothari described the Congress as a 'national movement, a pressure group and finally a political party'. Therefore, the history of the Congress Party was the history of national movement. The national movement underwent three main phases - (a) Age of petition and prayer, (b) Age of Extremism, and (c) the Age of non-cooperation. The last stage was led by M.K.Gandhi, who successfully used Congress as a weapon for achieving national independence. During this period Congress consisted of all types of individuals and ideologies assuming a pluralistic and

complex character (nationalists, socialists, secular and communal elements). In spite of these contradictions, Congress continued to be an effective organisation under the leadership of Gandhi as the sole objective before them was the achievement of independence.

After the achievement of Independence in 1947, the Congress emerged as an unchallengable political party and continued in power till 1977 (nearly for three decades) although its position was not strong during 1967.

Immediately after the independence, the Congress Party continued to reflect the pluralistic character. Non-radicals like Rajendra Prasad, Sardar Patel and socialists like Nehru, continued to function together. In the year 1948, socialists like Acharya Narendra Deva, Jaya Prakash Narain and Lohia left Congress due to the ideological incompatibility with the conservative forces.

During the Nehru's period, Congress party was given a socialistic image, but it was more in form than in substance. Having been fascinated by the socialist Russia, Nehru introduced planning in 1950 and stressed the role of public sector, mixed economy and the priority was to usher in a new era of development. It was in this spirit, that the historic resolution of 1955 at Awa session of Indian National Congress was passed stressing the "establishment of a socialistic pattern of society". Nehru's approach was more akin to Fabianism or democratic socialism of Soviet Russia.

During Mrs. Gandhi's era (i.e., 1969 to 1977) the Congress Party was split into Congress(O) and Congress (N). Mrs. Gandhi could not get on with the Congress stalwarts like Kamraj, Nijalingappa, Morarji Desai, Sanjeeva Reddy, S.K. Patil, Atulya Ghosh, and a few others, who were described as 'syndicate'. Having been expelled from the main organisation she formed her own Congress (New) and described the old stalwarts as reactionary and conservative who were opposed to radical changes in the country. She claimed that she represented the authentic Congress. The developments following Mrs. Gandhi's emergence as the undisputed leader of the Congress(N) gave the party the image of 'left of the centre'. The major policies like Banks nationalisation and abolishing of Privy Purses, ceilings on land and urban properties and the slogan of 'Garibi Hatao' have substantially added to the image of Mrs. Gandhi. The two-third majority to the new Congress in 1971 mid-term poll in Lok Sabha and the thumping victory in the assembly elections represented the real ethos of Congress and gave her legitimacy.

Check Your Progress - 1

At which session and in which year did the Congress emphasised, establishment of Socialist pattern of society?

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(See Para 23.2)

The events subsequent to the imposition of internal emergency in 1975, gradually led to a qualitative change in the politics of the country. The historic defeat of Congress in the parliamentary elections of 1977 and the rise of Janata Party came as a rude shock to the Congress. This has led to the second split in the Congress party in the formation of Indian National Congress (R) and Congress (I) on December 18, 1977. The main issues underlining this split were (a) inner-party democracy, (b) collective leadership, (c) personality cult of Mrs. Gandhi, and (d) authoritarianism. In the Assembly elections of 1978, the Indian National Congress of Andhra Pradesh and Karnataka, Congress (I) was voted to power with impressive majority. The Congress(I) was in a state of flux till 1980, till mid-term polls were conducted due to the breakup in the Janata Party. The outcome of this poll once again restored the invincible position of the Congress(I) and established the uni-party dominance.

Thus, it becomes obvious that the weakness and fragmentation of the Opposition parties were the strength of the Congress. In 1967, when opposition parties offered a united fight for the first time, the Congress suffered a set back. And the second time in 1977, when 'Janata Party' was formed, with all the Opposition parties except the CPI, the Congress suffered a defeat. Therefore, it is evident that so long as there is divided opposition, there cannot be an alternative to the Congress Party.

Further, it is also clear that all the Congress parties — Congress (I), Congress(S), Congress (J), Congress for democracy etc., have very little difference or have hardly any dissimilarities. Fundamentally there are no differences in their ideologies and programmes, the clash is between the personalities. Ideologically all of them are amorphous and indeterminate. The chief opposition to the Congress government is within the party.

The main factor accounting for the factions and diversities within the Congress is its flexibility and adaptation. As Prof. Myron Weiner rightly observed "in its efforts to win, Congress adapts itself to the local power and structure. It recruits from among those who have local power and influence. The result is a political system with a considerable tension between a Government concerned with modernising the society and economy and a party seeking to adapt itself to the local environment in order to win elections".

It is interesting to note that in Indian political system, the state structure is federal, while that of the parties is unitarian. It is specially true with the Congress. For all practical purposes, the working committee of 21 members of the Congress is the supreme decision-making body of which Prime Minister is the most important person. Parliament, party cadres or forums and units are ineffective in this regard. More surprising than this is the dominant role of the Prime Minister even in the party. Party presidents do not stand in comparison with the Prime Minister. It is no exaggeration to state that the roles of party presidentship and Prime Ministership are combined in the same individual. This is true of Nehru and Mrs. Gandhi. This explains serious constraint in building institution in the party system.

A comparative study of Nehru era and Mrs. Gandhi's era reveals that during the former's period intra-party democracy atleast existed nominally. The PCC Presidents, election of the Chief Minister, ministry-making, etc., were conducted in a democratic way without much serious interventions from the above. But in the case of the latter, all this was reversed right from 1971. The Chief Ministers and party presidents of the States were imposed from the top. This virtually led to a centralisation of power in the Prime Minister which set the trend of 'deinstitutionalisation', because the institutions were not allowed to perform their role. On the contrary, they were made to discharge the duties assigned by the top bosses.

23.3 Janata Party

For the first time in the post-independence period an alternative to Congress emerged in 1977 in the form of Janata Party. This also gave hopes to the people that a two-party system was evolving in India. However, true to the nature of opposition parties, Janata Party also could not overcome the ideological maladies and inadequacies. Due to this, the bi-polarization trends got serious set-back within three years.

It may be stated that the birth of Janata Party was an outcome of internal emergency of 1975. During the period of internal emergency, when the big guns of the opposition parties were detained, an attempt was made on February 8, 1976 by the leaders of the Bharatiya Lok Dal, Bharatiya Jan Sangh and Socialist parties in the Tihar Jail of Delhi to form a viable alternative to the ruling party. Important leaders like Charan Singh of BLD, Nanaji Deshmukh and S.S. Bhandari of the BJP and Surendra Mohan of the Socialist Party agreed with the proposal of forming a joint political party whose ideological thrust was to be rooted in the Gandhian thought". At this juncture, Jaya Prakash Narayan played a catalytic role and gave necessary inspiration and boost to the proposal. A formal announcement of the formation of Janata Party was made by J.P. (Jaya Prakash Narayan) on May 25, 1976. By this time, some of the senior Opposition leaders were released from Jails. The main constituents of Janata Party consisted of BLD, Jan Sangh, Congress(O) and Socialists with the dissolution of the Lok Sabha in January 1977 and corresponding declaration of general election, within two months. Mr. Morarji Desai at a Press conference on January 20, 1977 declared that the four parties would contest the elections as one party with a common programme,

flag and symbol. Thus, the Janata Party geared up its machinery and personnel, to face the crucial electoral battle. The Sixth Lok Sabha election became an epoch-making election, springing greatest surprise in and out of India. Janata Party was voted to power with a record number of seats. For the first time, a non-Congress government came into power at the Centre in the 25 years of post-independence period.

Check Your Progress - 2

Who played catalytic role in forming Janata Party

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(See 23.3)

The main ideology of the Janata Party in its election manifesto includes:—

- a) Restoration of democracy at all levels, in total opposition to authoritarianism, dynastic rule and the cult of personality in any form;
- b) Providing an effective and stable government with full respect for the rule of law; independence of judiciary, secularism and genuine non-alignments;
- c) removal of MISA and 42nd constitutional amendment.
- d) deletion of right to property from the fundamental rights;
- e) making right to work a realisable ideal, impetus to agriculture and small-scale industries, implementation of minimum income and wage policy, termination of destitution within 10 years.
- f) protection of the honour of women and children, due promotion of the interests of the weaker sections of the community, protection of the interests of the Scheduled Castes and Scheduled Tribes, provision of drinking water, eradication of illiteracy and introduction of three language formula in the educational institutions etc.

Since Janata Party was a conglomerate of heterogeneous elements, it failed to implement its promises and could not continue for the full term. The constituents of Janata continued to be dominated by their intrinsic identities resulting in crisis and finally split. As a result of the split, Morarji Desai's Government fell in the middle of July, 1979. A large section of this party broke away and formed a new party called Janata (Secular). The leader of the BLD, Charan Singh, withdrew the support of his group to Janata which resulted in the fall of Janata Government.

At the fall of Janata Government the main question was to know whether the other opposition parties could ever unite and contribute to a stable party system in India? If the Janata Party, could not continue, contrary to the verdict of the people, Myron Weiner observed, 'it is not the people who betrayed but the parties which betrayed the people.'

The polarisation process set in by the formation of Janata Party was a short lived phenomenon and the inherent process of fragmentation embedded in the Indian political system asserted, resulting in the disintegration of Janata party. Once again the pre-1977 situation has been resorted with the fragmentation of Janata into Janata (Chandrasekhar), BJP, Lok Dal and Congress (J). It was a historical tragedy which set at rest the evolution of a two-party system in India.

23.4 Bharatiya Janata Party

Bharatiya Janata Party is nothing but a regrouping of the former members of the Bharatiya Jan Sangh with a new nomenclature. The Jan Sangh was established on 21st October, 1951, as Shyam Prasad Mookherjee

as their President. It was one of the four constituents which merged with the Janata Party in 1977. After the fall of Janata Party, it emerged as Bharatiya Janata Party. The BJP can be said to have a committed following with devoted cadre. The Rashtriya Swayam Sevak Sangh, which is stated to be a cultural and social organisation, has been an active part of the BJP. Its RSS connection has become a very controversial issue during the Janata rule and in fact was instrumental for the breakup of the Janata Party. The party President, who occupies a very strong position, is indirectly elected. He is empowered to nominate the party executive consisting of 31 members. The organisational set-up consists of four zones with zonal secretaries. The zonal secretary acts as the link between the State unit and the party general secretary.

The BJP proclaims its commitment to the ideals of nationalism and National integration, democracy, positive secularism, Gandhian Socialism and a value-based politics. It believes that a national consensus based on certain principles and national objectives as most important. The people of different faiths and ideologies should be able to co-exist in peace and harmony, but those who have extra-territorial loyalties cannot contribute to national consensus. As a believer in democracy, it opposes all trends of fascism and authoritarianism. In terms of secularism, it is against appeasement towards any community, instead, it advocates full protection to the life and property of the minorities. It accepts Gandhian socialism in principle and seeks to replace Capitalism and Statism by the Co-operative system in all fields of economic activity.

23.5 Bharatiya Lok Dal

Bharatiya Lok Dal has formally come into existence in 1979 after the Janata Party split. Immediately after the split, it declared itself as Janata. Subsequently it came to be formed as Bharatiya Lok Dal. In fact its origins can be traced back to 1967 when it was called Bharatiya Kranti Dal that was merged with Bharatiya Lok Dal in 1974. Charan Singh formed a coalition Government in 1967 in Uttar Pradesh which consisted of Bharatiya Kranti Dal, as its constituent. In 1974, Bharatiya Kranti Dal merged with Lok Dal and then with Janata Party in 1977.

In the beginning Charan Singh, the leader of the Bharatiya Kranti Dal was a close associate of Nehru. But later he left Congress and formed Kranti Dal. He became a bitter critic of Nehru and the Congress Party. He described Nehru as the champion of big industry. Agriculture was neglected by the Nehru Government, he maintained. Therefore, he projected himself as the chief spokesman of rural areas, agricultural sector and Gandhian Socialism.

The Lok Dal Party in a common programme with Congress(U) issued the following programme as the party's objectives:—

1. Restoration of public confidence, in democratic system for solving the country's immediate problems;
2. Attempting to restore democracy, secularism and socialism in right spirit;
3. Guaranteeing freedom of the individual and independence of the judiciary;
4. Providing a clean and efficient administration;
5. Giving full protection to the weaker sections, Harijans, Backward sections and Scheduled Tribes;
6. Eradication of poverty and unemployment;
7. Improvement of agriculture with on emphasis on man power and utilisation, land and natural resources;
8. Abolition of land-lordism, awarding ownership of land to the tillers and carrying out of land reform laws;
9. Minimising the disparities in rural and urban incomes;
10. Encouraging cottage and small-scale industries;
11. Introduction of electoral reforms.

On 21st October, 1984 a new party came into existence — Dalit Mazdoor Kisan Party by merging Lok Dal, the Democratic Socialist Party and Rashtriya Congress. The leader of the new party, is Charan Singh.

While announcing the formation of the new party, Charan Singh, H.N. Bahuguna and Ratubhai Advani, the leading lights of the party, said that the new party would have electoral adjustment with left and democratic parties including Bharatiya Janata Party. Chaudhary Charan Singh was heading the Dalit Mazdoor Kisan Party.

23.6 Left Parties

The Bolshevik revolution of 1917 in Soviet Union gave rise to the left movements and left parties in different parts of the world. India too could not remain uninfluenced. The impact of Socialist Russia had profound impact on Indian National Movement. Chief among such influences was M.N. Roy who conceived India in terms of a socialistic revolution.

It is generally understood that Left parties are those which believe in bringing about socialist society by organising the working class and making them the harbingers of socio-economic transformation. Further a strong belief in establishing an egalitarian society by socialising all the instruments of production and distribution and radically altering capitalist mode of production by socialist mode of production. The emphasis is on realising a classless society.

In India there are a number of left parties. Chief among them are CPI and CPM. Besides, there are many splinter groups of CPI(ML). Like other parties, even the left parties suffer from ideological dissensions, factionalism and splits which weakened the communist movement in India.

23.6.1 Communist Party of India.

The impact of Soviet Communist revolution became pronounced in the formation of Communist Party of India 1920 at Tashkent, which later met at Kanpur in 1925. It was inspired by the goals of doing away with the British colonialism and bringing about a working class movement in India. However, since the immediate issue was the achievement of Independence, the Communist Party concentrated its efforts towards national liberation struggle.

In the post-independence period the Communist Party emerged as a national party with a promising base in the States of West Bengal, Kerala and Andhra Pradesh. In Kerala it formed the Government in 1957 under the leadership of E.M. Namboodripad. Till 1962 to 67 it was the main opposition party in the Parliament and was considered to be the only alternative to the Congress. Later it formed a United Front Government in West Bengal and Kerala after the Fourth General elections in 1967.

In the year 1964 there was a split in the Communist Party of India following the ideological disputes between Soviet Union and China. The Sino-Soviet dispute had its impact on Communist Party of India and accordingly it resulted in the formation of the second Communist party called Communist Party of India (Marxist) or CPM. Since then the CPI was ideologically closer to Soviet Union.

After the Indo-Soviet Treaty, the CPI extended support to the Congress party and considered it as a progressive Government attempting to bring about socialism. Even when the internal emergency was imposed in 1975, the CPI justified it and politically supported it. This goes to show how the CPI is guided by the attitudes of the Soviet Union towards the Congress party. A major criticism that has been levelled against the CPI was that it was a satellite of Soviet Union or (CPSU). This has considerably tarnished the image of the CPI. However, in recent times, the CPI, led by C. Rajeswar Rao is adopting an independent line to project that it is not guided by the Soviet Union.

The ideology of the CPI as a result of the Amritsar resolution accepted parliamentary democracy as the method to achieve the party goals. It has discarded militant revolutionary ideology that only a revolution can bring total changes in the society and economy. The party is based on the principle of democratic centralism, i.e., (a) Central leadership based on intra-party democracy (b) intra-party democracy based on centralised leadership.

The ideological thrust of the CPI rests on bringing about scientific socialism through (a) elimination of foreign monopolies, take-over of all foreign trades, effective measures to curb the monopolists and to break up big monopoly houses, nationalisation of all scheduled banks, abolition of land revenue and its replacement by tax on agricultural income and introduction of far-reaching land reforms, etc.

23.6.2 Communist Party of India (Marxist)

In the year 1964, a major split in the Communist Party of India occurred resulting in the formation of Communist Party (Marxist) which argued that the communist movement in India was becoming a revisionist, i.e., deviating from the real policies of scientific socialism. And the CPI came to represent revisionist and reactionary forces, its close understanding with the Congress is nothing but supporting the bourgeoisie on the other hand, the CPM wanted to be an independent line from Russia and China and to adopt the policies suited to India.

The CPM denounced the CPI as a gang of revisionists pursuing the opportunist line of class collaboration. It also accused the CPI of joining hands with the bourgeoisie landlord government of the Congress under Mrs. Gandhi which imposed emergency.

The ideological direction of the CPM in the constitutional sphere aims at (1) establishing a State of people's democracy led by the working class, (2) new constitution reflecting the sovereignty of the people, (3) taking out the emergency powers of the President of India, (4) abolition of the office of Governor and the second chamber of the State legislatures, (5) devolution of greater powers to the States, (6) inclusion of right to work in the fundamental rights, etc.

In the political sphere CPM believes in establishing people's democracy or a proletarian state aimed at eliminating exploitation. As regards the foreign policy, CPM is firmly in favour of an independent foreign policy based on opposition to imperialism and support to all freedom struggles.

In the economic programme, the CPM stands for (a) total liquidation of landlordism, cancellation of debts owed by the peasant's (b) equitable distribution of food to the people of rural and urban areas, (c) reduction of defence expenditure, (d) abolition of land tax on all essential items, (e) stoppage of foreign trade, (f) nationalisation of all foreign trade, (g) nationalisation of all foreign investment in industry, plantation, oil refineries, (h) replacement of Five Year Plans by 'People's Plans' etc.

In the recent period, CPM is emerging as a powerful communist party in general and West Bengal in particular. It has got considerable base in Kerala and Tripura.

23.6.4 Communist Party of India (ML)

A section of the CPM, after the split of 1964, formed themselves into Communist Party (Marxist, Leninist) which drew inspiration from China and its leader Mao Tse Tung. The basic area of difference between CPM and CPI(ML) was in regard to bourgeois democratic elections.

The CPI(ML) strongly opposes any kind of participation in the election or the institutions of parliament and legislatures. They believe that socialism cannot be realised through these institutions. It is a futile exercise. Further it proclaimed revolutionary methods of class-annihilation and guerilla factions for organising the people overthrowing the bourgeois class. However, there are many groups and factions within the CPI(ML) party, like Naxalites, CP group, Charu Mazumdar group and Satyanarayana Singh group etc. Most of these groups have been outlawed because of their belief in extremist methods or violence.

23.7 Summing Up

India has a multi-party system with a un-stable ruling party at present. The opposition parties are divided, which is a major weakness for their ineffectiveness. A stable two-party system is very vital for evolving a meaningful party system in India.

23.8 Suggested Readings

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|-----|--------------|---|---|
| (1) | Myron Weiner | : | India at the polls; the Parliamentary Elections of 1977 |
| (2) | Myron Weiner | : | party politics in India; The development of multi-party system. |
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23.9 Model Questions

I. Answer the following questions in about 30 lines.

- 1) Trace the origin and growth of Congress Party and explain different splits within the party
- 2) Explain why an opposition is weak in Indian party system.

II Answer the following questions in about 15 lines.

- 1) Write a note on B.J.P.
- 2) Sketch the disintegration of Janata Dal.

Dr V.Ravindra Shasthry

Unit — 24: Political Parties — Regional

Contents

- 24.0 Objectives
- 24.1 Introduction
- 24.2 Regional Parties in the South
- 24.3 Shromani Akali Dal
- 24.4 National Conference
- 24.5 Telugu Desam Party
- 24.6 Other Regional Parties
- 24.7 Bharatiya Christian Democratic Party
- 24.8 Uttar Pradesh Praja Party
- 24.9 Vishal Haryana Party
- 24.10 Shiva Sena
- 24.11 Mahavidarbha
- 24.12 Telangana Praja Samithi
- 24.13 The Bihar Rajya Party
- 24.14 Maharashtratravadi Gomantak Party
- 24.15 The Jarkhand Party
- 24.16 The All Party Hill Leaders's Conference
- 24.17 The Naga National Council
- 24.18 The Mizo National Front
- 24.19 Summary
- 24.20 Suggested Readings
- 24.21 Model Questions

24.0 Objectives

After going through this unit, you will be able to:

- * Explain the nature of regional parties in India and their role in Indian politics
- * Trace the origin, growth and demands of the regional parties and
- * Evaluate their prospects.

24.1 Introduction

Regionalism or regional parties emerge due to the nature of society. India is a multi-lingual and a multi-cultural nation. The linguistic and cultural diversities give rise to separatistic tendencies. The people living in a particular linguistic region tend to identify and attach themselves with that region. Similarly the cultural factor too brings such identities. In addition, the political parties try to exploit the ethnic and cultural factors for political gains in the competitive politics. In a different sense, uneven development of regions, will also bring a sense of discrimination and alienation leading to the formation of regional parties.

24.2 Regional Parties in the South

The birth of regional parties in India can be traced to pre-independence period. Tamil Nadu, witnessed the rise of powerful Dravidian Movement. During the British rule, there emerged a powerful anti-Brahmin movement in Madras Presidency. This movement was articulated and spearheaded by the Justice Party and the Dravida Kazhagam maintained that the Brahmins were enjoying monopoly in matter of employment, representation in legislatures, education etc. They felt special representation and reservation be given in legislatures, employment and education. Basically, this was a "Backward" class movement. In fact the Justice party preferred to support the British rule rather than Indian National Movement on the ground that if India gains freedom, it will be the Brahmins who will enjoy the power; transfer of power from white man to Brahmins. Therefore, one notices a powerful anti-upper caste movement in pre-independence days in the Madras State.

After independence, in continuation of the same movement, the Dravida Munnetra Kazhagam (DMK) was established. The inspiration behind this party was E.V.Rama Swami Naikar, who waged an uncompromising fight against the caste system, Brahmin domination and Aryan culture. Late Annadurai (a one time film script writer) became a prominent leader of the DMK. Having had its origins in social reform movements; the DMK emerged as a political party. On 5th June, 1960 the DMK organised a joint campaign throughout Madras State for the secession of Madras from India and for making it an independent sovereign State of Tamilnadu. They burnt publicly the map of India minus 'Tamilnadu'. A little later, the DMK proposed that the States of Madras, Andhra Pradesh, Kerala and Mysore should secede from the Indian Union and form an independent "Republic of Dravida Nad". In contested the third General Elections to the State Assembly on this issue, and won 50 seats.

Consequent to the demand of the DMK, the Union Government enacted in 1963, the 16th Constitution Amendment which enabled Parliament to make laws providing penalties for any person questioning the sovereignty and integrity of the Indian Union. As a result of this Amendment, the DMK modified its stand from secession to State Autonomy. In the Fourth General elections held in 1967, it came to power by winning a majority of seats in the Assembly and remained in power till 1977. In the year 1974 there was a split in DMK and Anna DMK was formed under the leadership of M.G.Ramachandran. The All India Anna Dravida Munnetra Kazhagam (AIADMK) came to power in the 1977 elections to the Assembly and remained in power since then. Ideologically there is hardly any difference between AIADMK and DMK. Both these regional parties have entered into understanding with the Congress depending upon the situation. The main demand of these regional parties has been greater devolution of powers to the State. In this context, the DMK had appointed a Committee called Rajamannar Committee which recommended inter alia greater transfer of power from the Centre to the States. However, the Union Government has not taken it seriously and ignored its recommendations.

In the month of September there was a split in AIADMK party. The split in the AIADMK has led to the formation of a splinter party, the Anna DMK (ADMK). S.D.Somasundaram was the founder of this party who was a Cabinet Minister in M.G.Ramachandran's Ministry over the years. Somasundaram was stripped off important portfolios like Commercial Taxes, Revenue and Excise. In his final days as a Minister in the MGR's Cabinet, Somasundaram was left with only Food portfolio. When the revolt did take place, Somasundaram became a symbol around whom the disgruntled elements of the AIADMK gathered. Two MLA's joined Somasundaram's ADMK from AIADMK. However, this break always did not have the potential to weaken the strength of AIADMK. Somasundaram was critical of MGR's administrative capabilities as a Chief Minister. At the party level, Somasundaram's allegation was that MGR was a dictator. Somasundaram had differences with MGR and MGR's handling of the Sri Lanka situation, which people believed was insincere; and the fact that MGR conferred extra-constitutional powers on Jayalalitha, a cine actress. Both the issues had popular endorsement.

24.3 Shiromani Akali Dal

A powerful Sikh movement in Punjab was witnessed in pre-independence period which was called Akali Dal movement. The Akalis are a part of the Sikh community who established in 1920 the Shiromani Akali Dal to force the government for making suitable legislation for the management of Gurudwaras. They emerged as a very powerful religio-political force. Under the Sikh Gurudwara Act, 1925, the Shiromani Gurudwara Prabhandak Committee (SGPC) has been constituted. It is the supreme religious body of the Sikhs. It is believed that whoever controls SGPC will control Sikh politics.

The Sikh community, under the leadership of Master Tara Singh, had demanded during freedom struggle an independent State of Khalistan. After the independence, Tara Singh demanded a Sikh State consisting of Gurgaon district of Punjab, Patiala and the East Punjab State Union. However, the extreme demand of Khalistan was modified, and instead a demand was made for a separate Punjabi speaking State within the Indian Union. This demand of "Punjabi Suba" was conceded by the Centre on States - Punjab and Haryana. However, the Akali leadership was not free from factional groups. A section of Akalis owing allegiance to Sant Fateh Singh revived the idea of a Sikh 'Homeland'. One of the Central Secretaries, Dr Jagjit Singh, toured several countries to mobilise Sikh opinion in favour of Sikhistan. However, this attempt did not

receive much support and favour among the Sikhs. Then the Akali leadership, like the DMK, started demanding decentralisation of political power and granting of greater State Autonomy. The President of SGPC, Guru Charan Singh Tohra, M.P. said on 9th March, 1975 that "powers should be transferred to the States except subjects like External Affairs, Defence and Communications. He alleged that the Centre was discriminating against the people of Punjab.

Again in recent times, extremist faction of the Akalis began to talk of Sikh nation or Khalistan. Some of these leaders were Randhir Singh Cheema, Dr Jagjit Singh and Harchand Singh Longowal. On 13th April, 1973 the conference at Anandpur Sahib adopted a resolution which is known as "Anandpur Sahib Resolution". The resolution contains inter-alia the following demands. (a) According the status of a Holy City to Amritsar (b) Extending an independent autonomous broadcasting service to the Holy Temple (c) Transfer of the disputed territories to Punjab.

At present the extremist group of Akalis have been indulging in violence, arson, sabotage and murders demanding the enforcement of the Anandpur Sahib Resolution. The crisis in Punjab has become very critical and is of grave concern to the nation as a whole.

Politically, Akalis have been managing to get considerable number of seats. After the 1967 State elections Akalis' have formed a coalition government in Punjab. After the 1977 elections, they formed a coalition government with Janata Party in Punjab. But they were unable to come to power on their own.

One important noticeable feature of Akali Dal is its two factions of extremists and moderates. The competition for leadership among them is acute, resulting in the present violent activities in Punjab.

24.4 National Conference

It is a party that has been in existence in Jammu and Kashmir. Its founder and architect Sheikh Abdullah was an outstanding leader of this party. National Conference's origins date back to 1930s. It started as a freedom movement in the year 1927 when it was established as "State People's Conference". Basically it was designed to fight against the autocratic rule of Maharaja of Kashmir. In the year 1939, Sheikh Abdullah formed his National Conference. In the year 1946, he launched "Quit Kashmir" movement challenging the authority of the Maharaja. Infuriated over the demand, the Maharaja got Sheikh arrested. The Indian National Congress has condemned this act. One interesting point is that Congress from the beginning backed Sheikh Abdullah against the Maharaja on the ground that he represented democratic and secular forces in the State. By 1952, the Maharaja stepped down and this paved the way for the transfer of power to popular government led by Sheikh. National Conference agreed to be part of India, provided its separate Constitutional Status was recognised and preserved. The Constitution of Jammu and Kashmir, accordingly, came into force on January 26, 1957.

In the Seventies Sheikh became the Chief Minister of Jammu and Kashmir, after a long period of imprisonment and seclusion.

In spite of two decades of Sheikh Abdullah's absence, the situation in Kashmir did not develop into anti-Indian or secessionistic movement. It marks a sense of identity with Indian nationalism. Besides, Sheikh Abdullah was invited to form the government by the Congress when it was enjoying sufficient majority in the State legislature. After the death of Sheikh Abdullah, his son Dr Farooq Abdullah, became the successor of the National Conference's leadership. In the last elections, Dr Farooq Abdullah won the polls and formed the government. However, the National Conference is not free from factionalism. Recently, Sheikh Abdullah's daughter, claiming to be the leader of National Conference expelled Dr Farooq Abdullah. This brought about a vertical split in the party.

24.5 Telugu Desam Party

This is yet another regional party emerging in the southern state of Andhra Pradesh. In the year 1982, Mr N.T.Rama Rao, a noted film star of Telugu film industry, founded Telugu Desam Party. It is remarkable that he managed to sweep the polls of 1983 Assembly in less than one year of the party's formation.

The main focus of the TDP is on the revival and preservation of Telugu people's culture. It tried to mobilise the people on cultural and linguistic sentiments. The leader of TDP, Mr N.T.Rama Rao levelled scathing criticism against the Congress Party to have surrendered the "self-respect of Telugu people and held it responsible for political anarchy, corruption, maladministration and backwardness" etc.

He attacked the central government for taking Andhra Pradesh for granted and the way chief ministers were appointed and removed. After coming to power, the leader of TDP has been actively taking initiative for bringing the national opposition parties together. He has been emphatically critical of the existing distribution of powers to the States. The TDP is stressing the imperative of greater financial decentralisation and State Autonomy. In a way he was highlighting uneven relations between the Centre and the States and generated a national debate on this issue.

At the Annual Party Conference "Mahanadu" held at Visakhapatnam, the party demanded the abolition of the post of Governor and transfer of greater powers to the State.

The main policies of TDP-mid-day meals, sale of rice at rupees two a kilogram, clean and honest government, etc., are indicative of the politics of populism.

The most astonishing achievement of TDP was dislodgement of Congress Party from power which has been in power ever since the formation of Andhra Pradesh in 1956. In the Assembly elections of 1983, the TDP has captured two-thirds majority. The same trend continues to be reflected in the following by-election held subsequently. It is generally believed that TDP is inconsequential without its leader N.T.Rama Rao. It is his personal charisma and film image which are the chief causes for the success of TDP.

However, the TDP in Andhra Pradesh has suffered a split in August, 1984 when N.Bhaskara Rao went out of the party to form a parallel TDP (NB) led by him. Thus, it is evident that factionalism, a common trait of all parties in India-national or regional-is also present in Telugu Desam Party.

Assam Gana Parishad

The AGP came into existence in 1985 in Assam, which was earlier led by two student organisations, i.e., The Hill Assam Students Union and All Assam Gana Sangram Parishad. These two organisations spearheaded an agitation to drive away foreign nationals from the soil of Assam. The natives were dissatisfied with the economic backwardness of Assam and the inflow of refugees making permanent settlement in the State and cornering all the benefits much to the detriment of the natives. The protracted agitations by the above mentioned organisations had affected peace and stability of the north-eastern part of India. Their basic demand was to identify the foreign nationals and either expel them from the State or rehabilitate them in the other parts of India. The Union Government had several rounds of talks with the leadership of the Assam agitation which ultimately led to the signing of an accord around 15th August, 1985 to end the agitation. Following the accord the two student organisations emerged into Assam Gana Parishad - the new Regional Party. In the elections held to the State Assembly in 1985, the AGP emerged victorious and formed the Government under the leadership of Profulla Kumar Mohanta.

24.6 Other Regional Parties

In addition to the main regional parties discussed so far, there are many other regional parties in India, though their impact and role are limited. They are Kranti Ranga in Karnataka, Maharashtrawadi, Gomantak Party in Goa, Peasants and Workers Party in Maharashtra, Socialist Unity Centre and Forward Block etc., in West Bengal. In the 1983 Assembly elections of Karnataka, the Kranti Ranga captured a good number of seats. By virtue of this it entered into a coalition with Janata Party. The other small regional parties are here and there without a prominent place and role. At best they act as pressure groups to bargain for their interests.

In any democracy respecting the right of dissent and diversity of life, regional parties are on an inevitable development and have a definite influence and impact on its politics. In India, there are a number of small

parties. They are the products of social reaction against political neglect and a feeling of deprivation. They have mobilised their strength in support of local issues and regional demands to which the leaders at the national level tend to be indifferent.

Thus, the post-independence period, as a part of political process, has witnessed the rise and decline of innumerable small, and large regional parties. Mostly, they emerged in the form of feudal reaction, regional imbalances, tribal alienation, factionalism within Congress party, personality conflicts, linguistic articulations, religious demands, economic factors and regional aspirations. The rise and assertion of these formations can be viewed as the expression of the diverse social configuration of India which is in a process of direct interaction with the political set-up. It is interesting to note that even national parties like Congress, Janata, CPI, CPM, with a broad ideological manifesto, programme etc., are also reflecting regional characteristics in their functioning at the regional or local level.

For instance the CPM, with a national perspective tends to have differential orientation when it comes to the question of West-Bengal or in relation to other parts of India.

Minor regional parties include a wide spectrum of communal, sub-regional, factional, linguistic, tribal and feudal - princely parties of Uttar Pradesh Praja Party and All India Ganatantra Parishad in Orissa. Later some parties emerged on linguistic and sub-regional demands. Factional and personality factors also contributed in the rise of some parties.

24.7 Bharatiya Christian Democratic Party

With the main object of "awakening public opinion to the pressing need of national integration" and to protect the Christian community in India through legal and constitutional means from respective laws, the Bharatiya (India) Christian Democratic Party was formed in Poona on 23, March 1969 under the leadership of Vikram Kore.

24.8 Uttar Pradesh Praja Party

The Uttar Pradesh Praja Party (People's Party) was a party of land-owners led by Kunwar Jagdish Prasad. The object of the party was to unite the landlords of UP under its flag and to fight for their rights both in and out of the Courts of Law. With the First amendment to the constitution in 1951, the Courts upheld the abolition of landlordism and the party turned to the election front but without success.

24.9 Vishal Haryana

A powerful regional move aimed at the expansion of Haryana was made when the Vishal (Greater) Haryana was formed by a convention of delegates from Haryana, Delhi, West UP, and of the former princely States of Alwar and Bharatpur, held in New Delhi on 22nd October, 1967, under the leadership of Birendra Singh, the then United Front Chief Minister of Haryana. Although the boundaries of greater Haryana were not defined by the convention, it was implied that the regions from where the delegates hailed should be included in it. It was announced by Birendra Singh that the party would be dissolved once Vishal Haryana came into existence.

24.10 Shiv Sena

It was founded in 1966 in Bombay. The immediate object was to defeat V.K. Krishna Menon in the 1967 Parliamentary election from the North East Bombay constituency, under the leadership of Bal Thackeray. He was a leading Marathi Cartoonist who assumed a formidable posture against the non-Maharashtrians, especially South Indians. The Shiv Sena is against outsiders and anti-communist. Its basic objective is to establish its predominance in the metropolitan areas of Maharashtra. It strongly argued in favour of "Maharashtra for Maharashtrians" in employment opportunities. Its influence was mostly confined to Bombay, Poona and Nasik. In the 1968 elections to the Bombay Municipal Corporation, the Shiv Sena

captured a substantial number of seats. On the boundary dispute between Maharashtra and Mysore, Shiv Sena launched an agitation and Bal Thackeray held out the threat that no Central Leaders would be allowed to move freely in Bombay unless the border question was settled in favour of Maharashtra. At present the Shiv Sena is a marginal factor in the politics of Maharashtra and its influence is confined to the city of Bombay.

24.11 Maha Vidharbha

It was founded in 1940 by M.S.Aney with the object of realising Maha Vidharbha consisting of Akola, Amaravathi, Buldana, Yeotmal, Nagpur, Chanda and Wardha districts. Between 1949 and 1953 the leaders of Marathi region of Bombay and Vidharbha agreed to the creation of one Marathi State. Nevertheless, the feeling for a Maha Vidharbha persisted.

After the formation of separate Maharashtra State, there was a mass Agitation for the creation of separate Vidharbha State under the leadership of Jambhwantrao Dhote. For this purpose Maha Vidharbha Rajya Sangarsh Samithi was formed in 1969. With Jambhwantrao Dhote joining the Congress-I the Movement became defunct. During 1984 after being thrown out of Congress Mr Dhote formed Congress for Revolution party.

24.12 Telangana Praja Samithi (TPS)

In 1969 the Telangana region of Andhra Pradesh witnessed a powerful separate Telangana Agitation. Starting as a Mulki-Rules implementation agitation, the Telangana Praja Samithi led by Dr M.Chenna Reddy, demanded a separate State for Telangana. In the mid-term parliamentary election held in March 1971, the TPS captured 10 out of 14 seats of the Telangana region. With its electoral victory and capacity to mobilise the masses, the Samithi secured the support of the central leaders for the ouster of the Brahmananda Reddy Ministry in 1971. Later the TPS merged with the Congress(I) led by Mrs. Gandhi.

24.13 The Bihar Rajya Janata Party

In the wake of the proposal for the abolition of the Zamindari system by the Congress, Kamakshya Narayan Singh, otherwise known as the 'Raj' of Ramgarh, founded the Bihar Rajya Janata Party in 1947. In September, 1959, Janata Party became a constituent of the newly formed Swatantra Party. K.N.Singh, the Vice-President of the Swatantra Party along with its 50 legislators in Bihar, defected to Congress Party and dissolved the Bihar Unit of the Party.

24.14 The Maharashtrawadi Gomantak Party (MGP)

After the liberation of Goa in December, 1961 from the Portuguese yoke, elections were held on December 3, 1963, with the object of introducing a democratic government for the first time in its history. The Goans were divided broadly into two sections — the one for merging Goa with Maharashtra and the other for keeping it as a separate State within the Union of India. The Pro-Maharashtrian section led by Dayanand Bandodkar and Tony Fernandes formed the Maharashtrawadi Gomantak Party in June, 1963. The party secured 14 of the 30 seats in the Goa Assembly and on December 20, 1963, the first popular ministry was formed by its President Bandodkar. The elections of 1967 enabled Bandodkar to constitute a Ministry on April 5th, 1967. In 1970, Bandodkar suspended M.S.Prabhu, the Joint Secretary of the party, from the party. Immediately, in protest, two members of Group to which Prabhu belonged, Anthony D'Souza, Minister of Law and Gopal Rao Mayekar, Minister of Education resigned on June 20, 1970. This division within the MGP was its undoing. Mrs. Shashi Kala, daughter of Mr. Bandodkar headed the MGP Ministry and the party is still a factor in the State politics though out of power now.

24.15 The Jharkhand Party

With the object of improving the lot of the tribals of Chotanagpur and securing government jobs, the Chotanagar Unnati Samaj was formed in 1920. It was converted into the Adivasi Mahasabha in 1938. This

Adivasi Mahasabha was converted into Jharkhand Party with the object of realising Jharkhand (Tribal State) comprising the mineral belt of Bihar, Orissa and parts of Madhya Pradesh.

In the 1951-52 elections, the Jharkhand Party had won thirty seats in the Bihar Assembly and three in Lok Sabha. Jaipal Singh was a prominent leader of the party. The demand for a separate Jharkhand State was rejected by the States Reorganisation Commission but in 1961 at the All-India Jharkhand Conference Jaipal Singh renewed it with greater vigour. In 1963, Jaipal Singh persuaded by the Congress leaders, merged Jharkhand Party with the Congress. A few Jharkhand leaders including Jaipal Singh were taken into the State Ministry. But later Jaipal Singh left the Congress and revived the Jharkhand Party. In the politics of fragmentation of Bihar, the Jharkhand party was split and Justin Richard and S. Memdrom founded the Hul (Revolutionary) Jharkhand Party. In 1970, two more factions of the party emerged under Bagun Sambrai and N.E. Horo which further dissipated its political strength in Bihar.

24.16 The All Party Hill Leader's Conference (APHLC)

The Assam government's move to introduce Assamese and Hindi as the Official language of the State generated strong protest from the tribal population. On July 6, 1960, the leaders of the tribal population met under Congress parliamentarian, Jayabhadra Hajger and constituted the All-Party Hill Leader's conference as a top-level coordinating body in the mobilisation of resistance against the language policies of the government.

Despite bitter opposition of the tribal leaders, the Assam government decided to implement its bi-lingual formula and therefore, Captain Williamson Sangma and other tribal leaders resigned from the Chaliha Ministry on October 7, 1960 and sought to justify their demand for a separate Hill State. It organised, several times, direct action for the achievement of a tribal State. The APHLC boycotted the elections in 1962. In 1967 it captured all legislative seats. The Union Government conceded its claim in 1968. The Garo Hills and Khasi-Jaintia Hills were constituted into a new State called "Meghalaya" in 1970. The party at present is not in power.

24.17 The Naga National Council (NNC)

The Naga National Council in the beginning aimed at unlimited autonomy for Naga Hills but later, under the leadership of A.Z. Phizo demanded complete independence because ethnically and culturally the Nagas had always been distinct from India. From 1952 onwards it (NNC) boycotted the elections and refused to cooperate with the government. Negotiations failed, the NNC has resorted to insurgency. In order to encounter the violent activities of the NNC, military has been deployed in this region.

24.18 The Mizo National Front (MNF)

Like Naga National Council, the Mizo National Front is an extremist organisation led by Laldenga. It demanded the creation of an Independent State of Mizoram. For this purpose it began its rebellion for "Liberation". It recruited young people into the Front and trained them in military operations. It has sent them to the neighbouring China and East Pakistan for Guerilla Warfare. Large quantity of Arms and Ammunition was found in possession of these Naga extremists.

We have examined the main regional parties which have become politically effective either by capturing power or by influencing the process of politics at the periphery. But a greater indepth study should focus on the different regional parties like Communal Parties, Princely Parties, Feudal Parties, Linguistic parties and Tribal Parties. The Post-Independence period has witnessed the emergence of these groups, even though they could not last long and influence the political process in India. Another dimension of the rise of regional parties is, that it is cutting across the regional entities and leading to caste, communal orientation. They play the role of the pressure groups in bargaining for political and economic interests. This process of shift from regional to communal sectarian and caste formation shows the extreme form of regionalism or the logical outcome of extreme regional sentiments. This also shows the manifestation of horizontal cleavages getting politically articulated in order to assert distinct entities and extract

economic benefits - employment, representation in the Ministry, Legislature and Reservations etc. The Small fringe groups like Kerala Congress, Indian Union Muslim League, Congress (O), Kerala Socialist Party etc., have been the manifestations of this trend and transcending from Regional to Local, Sectorian and Communal formations.

24.19 Summing up

One of the recent trends in Indian politics is the emergence of regional parties in some States. These parties are also playing a significant role in national politics. In five States -- Andhra Pradesh, Tamil Nadu, Assam, Jammu & Kashmir -- and Punjab -- the regional parties have come to stay. All these five state account for 114 Lok Sabha seats. Therefore, any political party which seriously wants to contest Lok Sabha elections can not ignore these regional parties. This apart, the increasing dependence of the so-called national parties such as the BJP, CPM, CPI and the Janata Dal on the regional parties illustrates the increasing role of regional parties in the Indian political system. This has been amply demonstrated by the fact that in the formation of National Front not only did the Telugu Desam play a significant role but the other regional parties like the DMK and the AGP are the important constituents of this new political organisation. Thus, far from being a threat to national integration, regional parties are playing a very crucial role in the federalising process.

24.20 Suggested Readings

- | | | |
|----------------|---|--|
| Joan Bondurant | : | Regionalism vs Provincialism : A study of the problems of the Indian National Unity. |
| Mathur P.C. | : | Social Basis of Indian Politics. |
-

24.21 Model Questions

(I) Answer the following questions in about 30 lines:

1. Write an essay on the factors contributing to the formation of regional parties.
2. Explain the origin of the DMK party in Tamilnadu.
3. Write an essay on the Akali Dal Party

(II) Answer the following questions in about 15 lines:

1. Communal Parties
2. Sub-regional parties.
3. Tribal Parties
4. Maharashtrawadi Gomantak Party.

--- Dr V.Ravindra Shasthy

Unit-25: Influence of Socio-Economic Factors on Indian Politics

Contents

- 25.0 Objectives
- 25.1 Introduction
- 25.2 States Re-organisation
- 25.3 Caste Factor
- 25.4 Tribal Differentiation
- 25.5 Agricultural Sector
- 25.6 Peasant organisations
- 25.7 Summit up
- 25.8 Suggested Readings
- 25.9 Model Questions

25.0 Objectives

After going through the unit if you will be able to :

- * Explain the process of interaction between socioeconomic factors and politics and
- * Describe how the newly emerging social formations influence and mould the politics.

25.1 Introduction

It is a known fact that Indian system is hierarchically structured. Based on privileges and separate identities, the society is not moving in the direction of egalitarian objective. The advent of British Rule in India has brought to surface certain new social forces and classes in our traditional, feudal social set-up. The introduction of liberal English Education and means of communication resulted in the formation of a new upper-middle class which was inspired by the ideals of Democracy, liberty and Nationalism. This class itself, in different phases, became an instrument of freedom movement. In other words, political awakening emerged. The British Rule also contributed to the emergence and expansion of Metropolitan cities like Bombay, Madras and Calcutta. There, besides being centres of political authority, have also developed into vital centres of Commerce and Trade. The new capital has opened up centres of labour concentration. All these go to show that the British Rule has set in motion the hitherto stagnant feudal society.

After the advent of Independence, a new lease of strength and energy was added to the forces of Indian social hierarchy. Already a trading and manufacturing class came into being with a stress on market economy which in-turn created a middle class, lower-middle class and working class. The pace was set for Industrialization.

Nehru's strategy, with his liberal frame of mind was focussed on planning, development of infrastructure facilities as a condition for industrialization, education system, transport and communication. These have added a new dimension to Indian socio-economic structure. As Mr. Misra observed that the stress laid on the building of infrastructure in India by Nehru, has become handy and conducive to the big business. It has benefited them most. Thus we find the rise of big business houses, a working class depending on the employment potential generated by the developmental process. Consequently, the rural areas witnessed a flow of steady migration of people to urban areas. The old landed gentry gradually shifted their assets to urban areas converting the value of the lands to urban assets.

In the rural areas, there emerged intermediate caste groups building a powerful force in the void created by the landlords. These caste groups have a strong orientation towards economic development. Thus the neo-rich emerging in rural areas has become a critical variable in the politics of the country.

The introduction of Panchayat Raj provided an opportunity for the articulation of the interests of the neo-rich class. The modern inputs of fertilizers, electricity, irrigation facilities benefitted these intermediate caste groups immensely. However, the rise of neo-rich class did not effect any qualitative change in the conditions of the landless agricultural labourers and small farmers who constitute an over-whelming proportion of the rural populace. In this respect, the complexion of rural areas did not undergo qualitative transformation.

25.2 States Reorganization

Soon after the independence the local elites agitated for the reorganisation of the States on linguistic basis, where they hoped to articulate their interests. In response to it the Fazal Ali Commission was appointed. In accordance with its recommendations, linguistic reorganization of States had come into being in 1956. However, linguistic reorganisation of States did not solve all the problems. It has encouraged the force of regionalism. Subsequently the forces of sub-regionalism also came to surface in the form of separate Telangana Agitation, separate Andhra Agitation, and separate Vidharba Agitation. These Agitations have exposed the inadequacies of linguistic reorganization of States. Consequently, focus was drawn on the intra-regional imbalances and uneven development. Besides, the boundary disputes between the States is another issue of great concern. The boundary disputes between Punjab and Haryana and Karnataka and Maharashtra continue to bedevil the politics of India.

25.3 Caste Factor

Caste factor is yet another dimension of the dynamics of Indian Society. The post-Independence period witnessed a great spurt in the Caste-consciousness. The caste consciousness is getting politically articulated for gaining greater economic concessions. Reservations for Scheduled Castes, Scheduled Tribes and Backward Classes is an illustration in this direction. The Political parties are also trying to manipulate caste factor to their advantage. It is also interesting to note that the thrust of caste-consciousness is more economic than social. The quest for modernity is a stimulus for caste consciousness. This is the result of politics of security leading to competition among caste groups.

Added to it, caste associations, of late, have become very prominent. In North-India, there emerged a very powerful backward class movement namely the Yadav Movement which challenged the upper class supremacy. Similarly mention can be made of the Kshatriya movement in Gujarat, the Backward class movement in Tamilnadu spearheaded by the Dravida Munnetra Kazhagam (DMK) is another illustration of the assertion of Backward classes. An instance in this regard is the 'Nadar' community which sought modernization by articulating the caste interests.

The problem of Scheduled castes is another manifestation of the social dynamic of India. Scheduled Castes constitute relatively a significant percentage of Indian society. In spite of the reservation policy, the development of Scheduled Castes had not been upto the mark. In fact it is stated that the reservations have not benefited even 5% of their population. The vote bank of Scheduled Caste has become a crucial factor in the electoral game of political parties. We also witness a reaction from the Backward classes to the benefits extended to the Scheduled Castes. They feel neglected by the system as they perceive that they are not getting their due. The growing intolerance and atrocities on harijans contribute significantly to the Caste conflict in the rural areas. In the last thirty years an elite has emerged among scheduled castes as a result of the reservations. But these elites, in the name and on behalf of schedule castes have been cornering the benefits occurring from political and economic opportunities. The major portion of scheduled castes continue to suffer deprivation.

Check Your Progress - 1

When did the linguistic reorganisation of States in India come into being?

(See Para 25.2)

25.4 Tribal Differentiation

Tribal differentiation is yet another feature of Indian society. There is large number of tribal population in different parts of India predominantly in the North-East, Bihar, Madhya Pradesh and Andhra Pradesh. The backwardness and poverty, alienated these tribals manifesting in different forms of tribal separatism and secessionists movements. The Naga National Council, the Mizo National Front, the All Party Hill Leaders Conference, the Jharkhand party are prominent in this direction. Regulation of Forest resources is a main source of tribal movements because it results in the alienation of tribals from their land which amounts to a challenge to their very existence. Therefore, tribal unrest is manifestly posing a serious concern.

25.5. Agricultural Sector

The most pathetic and neglected sector in India is agriculture. Nearly 70% of the people in India depend on agriculture for livelihood. Out of which more than 40 to 45 percent of the people constitute landless agricultural labour, the rest of them include big farmers, Marginal Farmers and Small Farmers. In general, agriculturists are very backward despite their contribution to the nation's economy.

The growth of Heavy industry in India has been draining the agriculture. There has been a contradiction between agricultural sector and industry. It is the agricultural sector which is supplying all raw materials to the industry. The cost of the agricultural products is very low in relation to the finished products of industry. Further, the inputs of the agriculture such as Fertilizers, Electricity and Market forces have been manipulated against the agriculturists. This partly explains the ever burdening job of a peasant.

After the Independence, no political party has seriously attempted to build up a peasant movement. Charan Singh, the leader of Lok Dal, has been championing the cause of the peasants but its impact is limited in terms of the magnitude of the problem and size of the country. Secondly, the Social background of our political elite also reveals that they are predominantly from the upper strata of peasantry whose interests are at variance with the interests of poor and small farmers.

The agrarian organizations in this country are pathetically weak. They have not been able to organise themselves and where they could, and are not strong enough to articulate their interests inspite of their large number.

However, the history of agrarian movement dates back to 1936 when the Congress adopted a resolution at Lucknow, expressing concern for the poverty and unemployment of the peasants. As a result of this the All India Kissan Congress, which later became all India Kisan Sabha, came into existence. This organisation failed to achieve a good start because it included peasants from very big to very small in its fold that created a sort of class of interests.

25.6 Peasant Organizations

Some of the peasant organizations of India are : The Hindu Kisan Panchayat controlled by the socialists and United Kisan Sabha controlled by the Communists (Marxist). In 1967, the CPM organised a

revolutionary peasants convention with the idea that any revolution in the country must be spearheaded by the Kisans. It is this kind of an idea that gave birth to the extreme Naxalbari Movement.

What is peculiar about the politics of agrarian organisations is that most of them are the victims of Caste, Regional and Ideological diversities that forced them to have affiliations to different political parties. The names of Jharkhand Party in Bihar and Workers and Peasants Party in Maharashtra are the best examples in this regard.

Similarly Ahirs, Jats, Thakurs in Uttar Pradesh; and Kapus, Kammas, Reddy in Andhra Pradesh, patidars in Gujarat are all peasants but are ridden with conflicts. They have their own caste interests to articulate. So, in the end, in the name of caste, they came under the influence of caste leaders, and in the name of ideology, they came under the control of political parties. The resultant impact is the weakening of the organized peasant movement.

Check Your Progress 2

Which Political Party organised Revolutionary Peasants Convention in 1967?

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.....

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Attempt is being made to mobilise the peasants in Maharashtra under the leadership of Sharat Joshi on a massive scale. the movement by Tikait for bettering the lot of the peasants also needs to be taken note of. Such movements of organised peasantry are now an all-India phenomenon. For instance, the agitation launched by the farmers in Tamil Nadu over the electricity rates and better prices for their produce, the farmers agitation in Karnataka, Punjab and the tobacco growers agitation in Andhra Pradesh are few cases in point. This trend i.e., the organization of the farmer's interests is spreading to other parts of the country, though this phenomena or trend is a logical by-product of the green revolution which means heavy expenditure on agricultural inputs. The farmers have come to compare their lot with other sectors of Indian economy. Hence, they have come to articulate their demands and focus them. This development has been described by various political analysts and economists as nothing but the demands of the rich peasantry, but by and large it explains the problems of the agricultural producers in general.

A notable aspect of the contemporary events is shift of capital from agricultural sector to urban areas and conversion the above into urban wealth. This is mostly due to the pessimistic prospects in the agricultural sector. On the other hand, The Industrial sector in India is fast expanding although it is unable to absorb the surplus manpower. In spite of a mixed economy, the private sector is dominating over the public sector. It is observed that public sector is serving the interests of the private sector. Statistical evidence shows to some extent how big business in India has been making enormous profits. A few handful of monopoly houses have come to dominate the productive process and market mechanism.

As a corollary to the expansion of industry, the working class movement has also been gaining in strength. However, the basic problem is that less than 5% of the workforce organised is engaged in the industrial sector. This accounts for the weakness of the organised working class movement. Among these organised working classes, there are many trade unions having affiliations to different parties. They are INTUC, AIUTC, UTUC, HMS and Hind Mazdoor Parishad, etc. The Trade Unions have the potential to paralyse the life, through the instrument of Strike. The Railway men strike of 1977, the Dock Worker's strike are indicative of the growing workers movement.

Due to the complex nature of Indian society, an explanation of the process of socio-economic forces is a big problem. Unlike Western societies, there are vertical and horizontal cleavages in Indian society,

particularly so in respect of an analysis of class structure. It is true that the sections of poor and rich have wide gap but this gap is not concretising in the form of classes. The deplorable conditions prevailing in the country are marked by extreme poverty, unemployment and hunger on one hand and concentration of wealth in a class on the other. But this class polarization is not crystallizing in terms of consciousness and identification. The caste factor is influencing and blurring the class formation. For instance, the conflict between Scheduled Caste people and Backward class people, although in terms of class both are identical and the difference is of degree and not of kind, defies the class analysis. The Inter-Caste conflicts among the poor seem to be growing which obstructs the process of class polarization. This goes to show how caste factor has been playing the role of an independent variable. The competitive politics have provided a stimuli to politicise caste consideration for achieving economic modernization. Even though the social role of the caste is getting shrunk because of modernity, its political role has become prominent for economic interest. Hence, caste association and organizations have come to be employed as tools for economic modernization.

It is true that India shares all those features and characteristics as a developing country. the gigantic task of socio-economic transformation demands immediate attention. The problems of inequality, poverty, unemployment and hunger provide a ripe situation for articulation of demands for modernization. But the political parties in India have not converted these problems into a mass movement. The left parties, CPI and CPM, also are no exception to this. Ideological dissensions and splits have contributed to the weakening of left movement in India. They have not been in a position to provide a left alternative and in ideological direction.

25.7 Summing up

In spite of failure of the parties, the basic problems of poverty, unemployment, and exploitation are manifesting in the form of peasant unrest and student agitations. Further the secessionists and separatistic forces, communalism, regional and sub-regionalism may be viewed as the expression of the internal socio-economic crisis. the political parties and the government in power may not appear to be responsive. As Prof. Myron Weiner explained, the situation of India as "politics of scarcity". The revolution of rising expectations are manifesting in the growing frustration. The quest for modernization is not matched with the pace of development. Thus the tensions in all walks of life are characterising the social, economic and political life.

25.8 Suggested Readings

- | | | | |
|----|----------------|---|--|
| 1) | Drucker, Peter | : | Patterns and Trends in Indian politics |
| 2) | Myron Weiner | : | Politics of Scarcity. |
| 3) | B.B.Misra | : | The Indian Middle Classes: Their growth in modern times. |
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25.9 Model questions

(I) Answer the following questions in about 30 lines.

1. Examine the impact of British Rule on the Indian Social Structure.
2. Examine the caste as an important factor in Indian Society.
3. Explain the problems of Agricultural Sector and the growth of agrarian movement in India.

(II) Answer the following questions in about 15 lines.

1. Give reasons for the tribal unrest in India.
2. How effective are the Farmer's agitation in projecting the problems of farmers?
3. How does poverty manifest in highlighting the problems of the Society?

Unit - 26 : Women in Indian Politics : Problems & Prospects

Contents

- 26.0 Objectives
 - 26.1 Introduction
 - 26.2 Social Reform Movement in Relation to Position of Women
 - 26.3 Home Rule Movement
 - 26.4 Gandhian Politics & Women
 - 26.5 Franchise Movement
 - 26.6 Women in Electoral Politics : Post-Independence period
 - 26.7 Women Voter Turnout
 - 26.8 Women in Civil Services
 - 26.9 Institutional & Non-Institutional constraint on Women's participation
 - 26.10 Summing Up
 - 26.11 Suggested Readings
 - 26.12 Model Questions
-

26.0 Objectives

After going through this unit you will be able to :

- * Explain the impact of Home Rule Movement on Change in the perception of status of women.
 - * Note the other important movement which contributed for change in profile of women.
 - * List the institutional and other constraints for increasing participation of women in politics.
-

26.1 Introduction

Women constitute half of the population of the world. Yet their status is not recognised. They continue to suffer from many drawbacks. This is a global phenomenon and India is no exception. It is more conspicuous in the third world countries. As Rami Chabra observed, the wealth gap between the industrialised North and the predominantly agrarian South has been called the starkest dualism of our times. Each could be another planet, so vast are the differentials in life styles and the expectations of the two values of this world, the developed and the developing. Yet the politics of plenty and the politics of poverty have one common denominator - built-in bias for the male that translates into varying degrees of prejudice against the female, blatant in some areas, subtle in others; with prosperity or penury, providing no guidelines or contours of this discrimination.

The above observation fully reflects the position and status of women which is characterised by a high degree of inequality in the third world countries when compared to the industrially advanced western world.

The backwardness of the third world countries has found its further ramifications in the conditions of women. Studies conducted by the UNO, on the third world women, have shown appalling conditions of women in terms of nutrition and health, education, sex ratio, employment and political status. India too, shares the common features of the third world countries with regard to women. The traditional customs and conventions pertaining to women are biased and prejudiced.

26.2 Social Reform Movement in Relation to the Position and Status of Women

The British rule in India led to the spread of English education with the establishment of universities at Bombay, Calcutta and Madras. The English education has provided an opportunity to the upper

middle class elite groups to seek English education and exposure to western liberal philosophies.

The impact of English education on these educated elite was two fold i) It brought an element of self consciousness regarding the backwardness, superstitions and social evils. This aspect represent the native and indigenous reaction to the western value system. (ii) It generated a new consciousness and urge for modernising India and the traditional patterns of life. Thus, began a process of interaction between modernity and tradition as a consequence of English education in India. As the recipient of English education and the Western liberal values, the upper middle class became the vanguard of social reforms in 19th century India. The manifestations of this mood and trend culminated in the founding of the Brahma Samaj and Prarthana Samaj. These organisations have attempted to build up a movement for the eradication of social evils, like, sati, child marriage etc. They have also encouraged widow marriages as a part of the struggle to emancipate women from the clutches of orthodoxy and superstition. Incidentally, the British response to the social reform movement was also conducive and positive. If this was the positive response of the elite groups to seek modernisation, the forces of revivalism became self-conscious, so as to strip off certain practices which were considered to be a distortion of Vedic ethics and norms. The forces of revivalism perceived the imperative need of eradicating the social evils and giving a new thrust to the pure vedic values of Hindu society. However, the pace set by reform movement was confined to the elite groups of upper middle class who have had good English education, with urban and prosperous backgrounds. It was the inspiration of these groups which gave motivation for women to take part in social and political life. Therefore, the response of women was extrinsic rather than intrinsic as the initiative came from the male sections of the elite groups.

Check Your Progress - I

Name any two nationalist organisations in 19th century.

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See Para 26.2

The nineteenth century social reform movement embarked upon by prominent figures like Raja Ram Mohan Roy, Dayananda Saraswathi and M.G. Ranade has prepared the necessary climate for the participation of women in the national movement. Subsequently, it was fully exploited by Gandhi for making women an integral part of national movement.

26.3 Home Rule Movement

In the beginning of twentieth century, women's movement proceeded from social to political. Initially, accent on social reforms received considerable response from the elite women of upper middle classes. It was partly due to the impact of the active male members of the family and partly due to the influence of British women. A few British women like Meera Ben, Annie Besant, Margaret Cousins were involved in the various issues of this period. Annie Besant's participation in the nationalist movement in the form of Home Rule League did indicate to Indian women, societies that political role was available to them. This motivated Indian elite women to participate in various activities connected with national movement. In India, women's branch of Home Rule League was started which consisted of leading personalities like, Sarojini Naidu, Annie Besant and B. Amma, etc.

26.4 Gandhian Politics and Women

The women's movement in India was an integral part of the national politics of Mahatma Gandhi. It was at the same time a product of Gandhi's programme. Nationalism had stimulated change and intellectual activity and involved women in roles that were new and diverse. The image of Indian

women as projected at this time was new and revolutionary. They marched in processions, attended political sessions, went to prisons, and conducted Congress meetings.

The nationalist movement was conceived by Gandhi not merely as a political struggle but a weapon for rejuvenating and regenerating society. He encouraged women to participate in all aspects and phases of nationalist activity, particularly in the constructive programmes and non-violent satyagraha initiated by him.

Under the inspiration and direction of Mahatma Gandhi, elite women took an active part in the Satyagraha in 1919. Annie Besant and Sarojini Naidu addressed meetings in Bombay to educate women on the nature of Satyagraha, Kasturba Gandhi and Kamaladevi Chatopadhyaya distributed the literature of Satyagraha on the streets. The AICC session of 1922 consisted of 16 women delegates. As a part of constructive programme, women were encouraged to participate in the programme of khadi, village industry, prohibition and untouchability.

Sarada Devi Chowdharani took keen interest in publicising the use of khadi in Punjab. She was considered to be the first woman to address a public meeting wearing a Khadi saree. Similarly Rajkumari Amrut Kaur, Basanthi Devi and Urmila Das sold khadi on the streets of Calcutta. Their arrest by the police had inspired more number of women to enlist as volunteers.

In the 1930 Satyagraha, large number of women had participated. In almost every province women joined the processions in thousands to break the laws.

26.5 Franchise Movement

By the beginning of 20th century a few women's organisations emerged in India. Notable among them were All India Women's Conference and the National Conference for women. These organisations were started at the invitation of British women like, Annie Besant and Margaret Cousins.

Apart from participating in Gandhi's Satyagraha movement, a concerted demand was made for the enfranchisement of women. In 1915 a demand for enfranchisement of women was presented by a women's delegation headed by Sarojini Naidu to the British Parliament. In this regard, Women's Indian Association, which was conceived and organised by British women played an important role in pressing the demand for women's enfranchisement, the Mountague - Chemsford scheme rather it was silent about women's right to vote. Subsequently, South Borough Committee was appointed to examine the issue. But it also did not recommend voting right to women in its report published in 1919. The Government of India Act 1919 even though did not enfranchise women, empowered the provincial legislatures to remove sex discrimination on voting at their discretion. In response to this many provinces including Madras, Bombay, United Provinces, Central Provinces, Bengal and Punjab passed resolutions doing away with sex restriction on voting.

Prior to this, certain qualifications were prescribed for the right to vote. They were age and property qualifications. The South Borough Committee recommended three more qualifications. Under the new scheme, the number and proportion of women had registered a substantial rise. A wife of a man who had property qualifications and above twenty five years of age could vote. A widow over 25 years of age was qualified to vote, if her husband was franchised at the time of his death. Also included in the enlarged franchise were graduates over 21 years of age. The number of women who were thus enfranchised under this scheme was still small.

Thus it is clear that women could vote and get elected or nominated to the provincial legislatures. The first elections under the Government of India Act 1919 were held in 1926. The Act enfranchised less than one per cent of the total female population. The franchise committee of the Round Table

Conference in its report recommended extension of franchise to a substantially increased proportion of women voters.

The Government of India Act 1935 extended the right to vote to women who have completed 21 years of age provided they satisfied one of the following requirements : They were to be literate, property owners or wives and widows of men having properties. This act enfranchised six million women when compared to 29 (twenty nine) million men.

In the 1937 elections, women contested and won 42 seats and secured five more seats by nomination to the provincial legislatures. When the ministries were formed in 1937, three women became ministers and a few others were elected as Deputy Speakers in the Provinces. But all of them had to resign in 1939 when the second world war broke out. Later in 1946 when elections were held for the Constituent Assembly many prominent women of India were elected to it.

An evaluation of the participation of women in Indian politics in pre-independence period can be summarised as follows :

1. Involvement of women in the politics of different phases of national movement has been sporadic, peripheral and not very significant.
2. Participation of women was confined to a few from the elite sections of the society.
3. Gandhiji made a pioneering attempt in viewing women as an integral part of the national movement and mobilising them not only for the cause of independence but for the emancipation from the social evils.
4. This paved the way for the demand of enfranchisement in the electoral politics of pre-independence period.

26.6 Women in Electoral Politics of Post-Independence Period

After the achievement of independence in 1947, a new era commenced in the history of the status of Indian women from the legal point of view. The new constitution of India which came into force in 1950 expressed its firm resolve to usher in a new era in the political and legal status of women. Women who were hitherto discriminated against have been accorded legal equality viz., men. The conviction of the framers of the Indian constitution to ensure legal equality to women manifests in Art. 14 which guarantees equality before law for all the citizens while Art. 15 prohibits discrimination based on sex. Art. 16 recognises and ensures equality for all irrespective of sex in public employment. Besides, Article 15 provides the state to make special provisions for advancement of women. Article 326 established the principle of universal adult franchise which constituted the foundation of modern Indian Democracy. Universal adult franchise was intended to widen and expand the opportunities for the participation of women in political and social spheres. The participation of women in Indian politics in free India can be explained by examining their electoral participation and holding of key posts in the legislatures and government services. However, this does not in itself adequately explain the active participation and assertions of women's rights. This is mainly because of the sociological and traditional factors which are not conducive for the participation of women.

It is interesting to note that percentage of voting by women in all the elections has been lower than that of men ever since 1950. The percentage of women among total voters had been lower than the percentage of women in the total population of the country.

It has been evidenced that the percentage of women in the total population itself was on the decline over the years. For instance it was 48.61 percent in 1952 and 48.15 per cent in 1977. This sex ratio has been steadily declining of women in the society. This is evident from the following table :

*** Percentage of Women/Total Population vis-a-vis Total Electorate in India**

Years of Elections	Percentage of women in the Total Population
1952	48.61
1957	48.61
1962	48.48
1967	48.48
1971	48.18
1977	48.18

Source: Ministry of Education and Social Welfare, 1974

26.7 Women Voter Turnout

The participation ratio of women in various elections had been low. In different Lok Sabha elections, rate of participation varied between 38.14% and 55.14% from the first to the sixth general elections. Poll turnout rate increased from first to fourth general elections. But the fifth general elections it witnessed considerable decline. However, in the sixth general elections, the percentage turn out was the same as the fourth elections but lower than those of men. This indicates a slightly low political participation of women as compared to men in exercising voting rights.

It is interesting to observe that the total number of women who were represented in the Lok Sabha in different years is very low and extremely disproportionate to their numerical strength of the total population. For instance, in 1952 there were only 22 women Lok Sabha members out of the total of 449. The highest number of women represented in Lok Sabha was in 1967 when there were 31 women members out of 523 total candidates. The total number of women represented in Lok Sabha was a byspecially low in relation to men.

Women Members in Lok Sabha

Year	Total Members	Women
1952	400	22
1957	500	27
1962	503	34
1967	553	31
1971	521	22
1977	544	19
1980	544	28

Source : Women in Politics, P. Satyanarayana, Prasarita 55-56-1984.

It is evident from the above table that the representation of women in the Lok Sabha is very insignificant. It also reflects that women are not taking active part in the competitive electoral politics of Indian Democracy.

It is equally interesting to know that in the Rajya Sabha, women members were also under represented. In 1952 there were 15 members in the Rajya Sabha and the highest was in 1976 when there were 24 women members. The number of women candidates in the Rajya Sabha had always been disproportionate to male members. This is supported by the following table.

Women in Rajya Sabha

Year	Total Members	Women
1952	216	15
1957	232	20
1962	236	18
1967	239	24
1972	242	18
1976	236	24

Source : Women in Politics, P.Satyanarayana, Prasaritha, 55 - 56, Jan-June, 1984.

From 1972 to 1980, the number of women candidates who were inducted into union cabinet is also considerably low and disproportionate to their numerical strength of the population. The table given below demonstrates that women have been under - represented in the union ministry right from 1952-1980.

Women in Union Cabinet

Year	Total Ministers	Women
1952	26	1
1957	38	2
1962	52	5
1967	51	5
1971	53	4
1977	44	2
1980	51	4

Representation of women in the Union Council of Ministers has been low. An analysis of their representation in the ministers is of immense use to get a micro-level understanding. Similarly in Andhara Pradesh Council of Ministers, the women's representation is pathetically low. This is evident from the below table.

Women in Andhara Pradesh Cabinet

Year	Total Ministers	Women
1956-57	13	0
1957-60	14	0
1960-62	14	1
1962-67	14	1
1967-71	28	1
1973-78	39	1
1978-83	33	1
1983-84	27	1

Check Your Progress - 2

Is the representation women in the council of Ministers adequate ? If not give two reasons.

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See Para 26.8

26.8. Women in Civil Services

Women's recruitment and selection in various services like IAS, IPS and Central services is another important indicator of women's role in Indian Politics. The recruitment and selection in these services would sufficiently enhance their status in playing decisive role in the affairs of the country.

In the government services the representation and share of women has been very low. Till 1972 women have been disqualified from joining some of the important central services. For instance, in 1972-73 there was only one woman candidate who was selected in Indian Police Services. The total number of women candidates who have joined IAS from 1945-1972 has been 150 only. This clearly shows how women are under-represented in the government services as against men. The following table demonstrates representation of women as IAS probationers. It also shows that men have been dominating not only the political sphere but also government services.

1961-72 I.A.S. Probationers

Year	Number of Members	Men	Women
1948-60	615	596	19
1961	87	86	1
1962	98	97	1
1963	90	86	4
1964	114	107	7
1965	130	121	9
1966	137	126	11
1967	140	112	14
1968	122	83	10
1969	99	85	16
1970	96	98	11
1971	111	119	13
1972	143	596	24
Total	1982	1742	140

Source : P. Sathyanarayana, Vasaritha, Women in Politics.

26.9 Institutional and non-institutional constraints and their impact on Women's participation

The traditional Indian social system is inherently in-built on certain institutions like family, functions of women and domestic roles etc., which are acting as constraints for the participation of women not only in political sphere but other spheres of life. In fact, participation of women in politics has been minimal not only in India, but also in advanced countries including socialist countries. Most of the studies on women reveal that in socialist countries like Russia and China, political revolution did not bring a qualitative transformation in the participation of women. Women continue to be preoccupied with the domestic functions which demand greater attention. For instance, cooking and maintenance of the household, involve greater preoccupation for women.

This kind of preoccupation renders active participation difficult in politics. Besides, constraint like child-bearing imposes limitation on the involvement of women in politics.

The above factors are relevant in the Indian context also. In India, women continue to play the traditional roles in the family, which take most of their time and energy. As a result they are not as free as men to engage in politics and evince interest in public affairs. It is true, a few women have

been holding key positions like governors, ministers and public offices. Our prime minister Late Mrs. Gandhi was the best example.

These isolated instances can not be regarded as a real participation of women in Indian politics. Such cases are totally insignificant in relation to the numerical size of women's participation.

26.10 Summing Up

The main reasons for their poor participation in Indian politics may be summarised as follows :

1. Indian independence did not automatically usher in an era of equality of women in the real sense of the term. Their participation, notwithstanding legal equality in the form of universal adult franchise, continued to lack efficacy and ascent. In this context the observation of A.R. Desai is very pertinent. He stated that "independence brought the promise of equality of opportunities in all spheres to women, and laws guaranteeing equal rights of participation in the political process, equal opportunities and rights in education and employment were enacted. The object of these laws was to widen women's participation in all areas of social activity - economic, social and political. But unfortunately, the development in the years since independence have produced the opposite results in actual practice. The government - sponsored developmental activities have benefitted only a small sections of women., mainly of the urban middle class. The large majority of women have not benefitted from development. On the other hand, there is now indisputable evidence of a steady decline in the value of women in the society. The fruitful trends that developed during the freedom struggle and culminated in the constitutional recognition of equality now seem to be on the decline. This phenomena extends to almost all aspects of women 's life".

2. The other institutional constraint on the low political status of women in the country is the nature of socio-economic set-up. The economic set-up in India as in most of the countries, makes women dependent on men through out their lives - as unmarried daughters on the father, as married women on their husbands and in old age on the sons. This subordination within the family provides basis for a socialisation process that results in the subordination of women in the wider society. They are largely excluded from the ownership of property and modern occupation. Literacy among them is low.

3. Religion as an institution is also biased against women. The idea of male supremacy and patriarchy is embedded in all the established world religions. Generally in most of the religions, male figures are projected as gods, prophets and messiahs. Religion also makes women second grade citizens by imposing restrictions such as purdah, as in the case of Muslims. Religious leadership is the sole monopoly of men among Muslims while it is a near monopoly among Hindus.

4. The unequal status of women in society and the consequent dependence on men is to large extent due to property relations. Women have been, kept at arm's length in property matters. The dominant Hindu ethos gives a near monopoly of property inheritance to the male lineage.

Lack of access to property keeps them in a state of constant insecurity, which is further reinforced by the lack of education. In the absence of education and economic security women continue to be dependent. Dependence inherently deters them from being active in all spheres of political and social life. In order to make women's participation in politics a more meaningful reality, eradication of illiteracy and revamping of tradition and building up rational value system which recognizes equality of women and men is a necessary condition.

26.11 Suggested Readings:

Thomas P : Woman through the ages

26.12 Model Questions

I. Answer the following questions in about 30 lines.

1. Examine the impact of English education and social reform movement on women in India.
2. Describe the role played by women in Indian Freedom Movement.
3. Explain the reasons for the low participation of women in politics.
4. Critically examine the institutional and non-institutional constraints and their impact on women's participation in politics.

II. Answer the following questions in about 15 lines.

1. Franchise Movement.
2. Gandhian politics and women.
3. Women in All India Services.

—Dr T.S.Mohana

Unit - 27 : Protest Movements

Contents

- 27.0 Objectives
- 27.1 Introduction
- 27.2 Peasant Movements
- 27.3 Telangana Peasant Movement
- 27.4 Social Structure
- 27.5 The Naxalbari Movement
 - 27.5.1 Evolution
 - 27.5.2 Processes
- 27.6 Contemporary Peasant Movements
- 27.7 Backward Class Movement
 - 27.7.1 The Tribal Unrest
- 27.8 Youth and student protest
- 27.9 Gujarat Protest Movement
- 27.10 Bihar Protest Movement
- 27.11 Summing Up
- 27.12 Suggested Readings
- 27.13 Model questions

27.0 Objectives

After going through the unit you will be able to:

- * Explain the nature of protest Movements and list movements with their ideologies

27.1 Introduction

It is difficult to define and classify protest movement in general, more so in the Indian context.

Protest movement involves collective action. This collective action, when sustained, takes the form of a movement. The process of such an action need not be formally organised, but should be able to create an interest and awakening in the masses.

A protest movement in our conceptional understanding strives to bring about change, to some extent or a total change in the existing systems.

M.S.A.Rao says "The social changes that result from a movement may be seen first in terms of the changes in position of the concerned section of the movement and secondly in terms of their impact on the wider society".

Main issues in the study of protest movements are its emergence, its structural conditions under which the movements emerge, the factors which inspire such movements and their impact of such movements on society.

Our society is confronted with a number of problems like the youth and student unrest, labour unrest, religious revivalism, peasant unrest, urban unrest, backward classes unrest etc. Hence, protest movements can be broadly classified into social, political, sectarian and economic protest movements.

The Indian scenario provides us with the possibility of a neat classification of such movements. These include:

- * Peasant Movements.
- * Backward Classes Movements
- * Religious movements.
- * Tribal Movements
- * Women Movements
- * Youth and student Movements.

Our immediate concern is to analyse the peasant movements, the youth and student protest movements articulating in the Gujarat and Bihar movements and backward classes movements.

27.2 Peasant Movements

"The capacity of peasants to organise against social opposition and repressive measures and to rebel and revolt against injustice, oppression and an exploitative social order has become an inescapable reality" (Rajendra Singh, Peasant Movement in Uttar Pradesh).

Many studies have examined the role of peasant protest in relation to its social change.

In India, peasant movement could be traced to the Moghul period. The intensity and frequency increased subsequently due to the increase in the politicisation process among the peasants'.

The post Independent era has shown an increasing tendency in the organisation of the protest movements by the peasants. The Telangana peasant movement (1946-51), the Tehabaga in Bengal during 1946-47 and Naxalbari in 1967 are few examples in this regard.

27.3 Telangana Peasant Movement

In the Indian context, two ideologies are associated with the peasant movements - the Bhoodan and Sarvodaya and Acharya Vinoba Bhave and Jyoti Basu respectively and the Communist.

"Despite obvious structural constraints, traditional India has experienced a number of peasant uprisings before and after Independence" (A.K. Desai).

The communist-led armed insurrection, between 1946 and 1951, in the Telangana region of the erstwhile princely state of Hyderabad, represents the most important peasant uprising.

The peasant movement led by the Communists with a revolutionary ideology of class struggle received impetus from the Telugu literary movement. According to K.Ranga Rao "literary movement introduced ideas of renaissance and was against the Nizam's establishment".

27.4 Social Structure

The former State of Hyderabad was ruled by the Nizam from around 1920. Hyderabad was a multi-lingual state consisting of these linguistic areas: Telangana (eight districts), Marathwada (five districts) and Karnataka (three districts). The Telangana region comprised almost half of the State. Agriculture was the main occupation of 85 per cent of the population. Sixty per cent of the land in the state was under Rythuwar revenue system and the remaining under the direct-control of the Nizam, the feudal lords such as Jagirdars and Maktedars etc.

The non-Jagirdari areas were controlled by Deshmukhs and Deshpandes- and hereditary village officials. This resulted in the rise of absentee - landlordism, an oppressive system of land tenure" (P.Sundarayya, Telangana People's Struggle and its Lessons).

In the process of large-scale land alienation during the period between 1910 and 1940 a large number of cultivators became tenants - at will, crop-shares and landless labourers. The agrarian scene was further

aggravated with the rise in the price of agricultural produce making owner owner-cultivator rich on one hand and the prevalence of vetti system on the other (Practise of free and forced labour which created an evil exploitative feudal system).

Thus the socio-economic structure of the state presented a scenario of oppression and injustice meted out to the peasants by the Nizam and his feudal lords. Such conditions favoured the growth of Andhra Mahasabha and the Communist party.

Nalgonda district emerged as an important battleground for the struggle between peasants and landlords.

The Nizam's decision in 1947, not to join the Indian Union, the use of the Razakars (Ithihad-ul-Muslim developed a cadre of volunteers who were called Razakars) intensified peoples reaction against the Nizam's rule.

The Communists found the situation fertile for an armed insurrection and guerilla type of warfare. A movement was started with the slogan 'land to the tiller' against the landlords. The upsurge against the Nizam and the Razakars turned into an armed struggle against the Nizam's government.

Following the police action, the Government of India imposed military rule as a temporary measure. The Communist party decided to revitalise the armed struggle against the new government with the avowed aim of consolidating the gains of their struggle in favour of poor peasants and rural labour force.

Guerilla warfare was intensified and the communist squads took shelter in the villages in the plains as well as in the tribal areas. The army intensified its action against the movement. With people weary of supporting the movement the Communist party could not continue its armed struggle.

The Telangana peasant movement contributed to a new socio-economic strategy to be adopted by the then government. The Jagirdar system was abolished and progressive land reforms were enacted. The peasant movement made the rich land lords realise that they can no longer exploit the tenants as in the past and impose forced labour. The movement had a telling impact on social conditions. According to M.S.A.Rao "the movement did bring about a change in the traditional distribution of power".

27.6 The Naxalbari Movement

In 1967 Naxalbari, a small village in the Siliguri subdivision of Darjeeling district, suddenly came into prominence attracting world-wide attention, when the local peasants rose in armed rebellion, led by a fierce dedicated band of youngmen.

Darjeeling is a frontier district of India. It is bounded in the North by Sikkim, on the North-East by Bhutan, on the West by Nepal and in the South-East by Bangladesh. The area where the peasants rose in revolt consisted of three police stations: Phansidewa, Naxalbari and Khoribari. There was a high percentage of share-croppers in these areas. Partha N.Mukherji says with the advent of the British which also signalled the penetration of the money market economy into rural areas, Jotedari system crystalised into Jotedari-adhiari system. The introduction of the profit motive led to the gradual transformation of the feudal economy into one which bore marks of an increasing exploitation of labour aimed at retrieving the maximum produce and rents for the open money markets".

Check Your Progress - 1

When and where did the Naxalbari Movement started?

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See Para 27.5.1

Jotedari and Jotedari-adhiari systems were a long saga of exploitation. The system exploited the labour of the adhiar through every conceivable means, keeping them altogether dependent on Jotedari.

27.5.1 Evolution

The evolution of Naxalbari movement could be traced back to 1951-54. Kanu Sanyal, the Principal leader of the movement, observes that 1951-54 was the organisational stage, in which the passantry of Naxalbari, advanced through clashes to get them organised".

1953 to 1957 was the period of worker-peasant alliance. In 1962, they responded to the call by the West Bengal Kisan Sabha to "gain possession of benami land". Prior to the 1967 peasant revolt in Naxalbari, sometime in April-May 1967, a conference attended by 5,000 peasants decided to:—

- (i) seize the lands of Jotedars;
- (ii) seize the lands of the plantation workers who have purchased land from the p
- (iii) cultivate lands held under and retain all the produce from lands appropriated from Jotedars.
- (iv) where jotedar is engaged in self-cultivation, such lands should not be seized.

The path of Naxalbari along the lines of "Mao's long March" was already carved out.

In the beginning, it was a band of communist revolutionaries, belonging to CPI(M), who provided the leadership. The Naxalbari movement brings to surface names like, Charu Mazumdar, Kanu Sanyal, Jagat Santhal, Ashim Chatterjee, Promod Sen Gupta et al. Though the movement was confined to a few pockets mentioned above, its ideology permeated the Indian polity. Though the uprising was crushed, its impact had spread over to other areas. According to Das Gupta "Quite contrary to the widely held view that the consequent to the strong police action in Naxalbari movement was quickly brought under control, there is sufficient evidence to show that the rebel peasants and their leaders, whether in or outside, far from repenting their mistakes and misdeeds' continued to be unswerving in their commitment to an agrarian revolution.

27.5.2 The Process

The containment of agrarian disorder saw the emergence of the urban unrest. In 1969, it was urban-based youth and party that spearheaded the revolutionary activities.

The Naxalbari movement has four phases. It started at Naxalbari and spread to Srikakulam, Gopiballavpur and Birbhum.

According to Ashim Chatterjee, the legendary Naxalite leader "the whole movement got bogged down in organisational trivial. The scene shifted to Srikakulam. He further adds 'It was a peasants' struggle for land which grew into an armed agrarian struggle'.

The ill-conceived programme of guerilla warfare and the annihilation of class enemies, proved disastrous to the movement. Ashim Chatterjee calls the line of annihilation as "Social terrorism". He says We practised annihilation from mid-1969 to early 1971, for about two years. We started the campaign with about 20,000 landless and poor peasants. During these two years, 120 jotedars and their agents were annihilated by the peasants. Experience showed that the line of annihilation ultimately made the peasants passive and failed to organise. As it drew away from the struggle of land, the main content of the rural class struggle, the level of awareness of the people and the strength of organisation showed a decline and the Vanguards increasingly became paratroopers".

Partha Mukherjee points out that 'Naxalbari movement is a transformative movement. Search for a radical transformation is on, both among the Naxalites and those who subscribe to a radically different methodology of militant struggle, and movement is kept alive".

27.6 Contemporary Peasant Movements

"The analytic review of the social development brings out certain trends. The functioning of India's open polity and society has over a time helped crystallisation of forces of differentiation and development of socio-economic interests."

The present peasant movements erupting in different parts of the country have demonstrated that such movements have a sectarian appeal on one hand and the people's disillusionment for the political parties on the other.

It is a fact that "the green revolution" has intensified rural disparities. The slogan of "Land to the tiller" has remained unfulfilled. The share-croppers and the tenants at will remain as insecure and unprotected as before.

Check Your Progress - 2

How did green revolution intensified disparities?

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(See Para 27.7)

At present Sharad Joshi in Maharashtra, Rudrappa in Karnataka and Narayanan Swamy Naidu in Tamil Nadu are the important mobilisers of peasants.

With political parties losing their credibility, Sharad Joshi has emerged as a leader of the peasants.

The present peasant movement led by Sharad Joshi, Rudrappa and Narayanan Swamy Naidu stems from the farmers' demand for a remunerative price for their own produce. They made their demand for higher prices on the grounds that there has been a net flow of funds from the agricultural to industrial sector. The present peasant movements more so of Sharad Joshi are confined to economic demands. This explains their disassociation with political parties. Another feature of the present peasant movement is that of the role played by the rich peasantry.

The rich peasantry have mobilised themselves for articulating their demands. This has resulted in isolating the poor peasantry. Probably because of this factor, the peasant movement led by Rudrappa in Karnataka had failed. Initially, the struggle began as a poor farmer's agitation, which was later taken over by the rich peasantry. This resulted in a leadership crisis.

In Tamil Nadu, Mr Narayananswamy Naidu - led the agitation which has also failed. M.G.Ramachandran's government succeeded in putting down the agitation, because the rich peasantry was no match to AIADMK's strategy of isolating the rich farmer from the poorer and middle sections.

In Maharashtra, the government sought to accommodate the demands of Sharad Joshi's movement while at the same time trying to divide the rich peasantry. The current farmers' agitation if nursed appropriately by the rich peasantry, will emerge as strong pressure group.

27.7 Backward Classes Movement

Backward classes who had suffered from different forms of deprivation, became conscious of their status. They organised themselves in groups having separate identities.

"The green revolution also saw the emergence of the peasant class as a formidable force in Indian politics. The so-called backward communities comprising Jats, Ahirs, Yadavs, Kurmis and Gujars, etc, are placed below the category of high caste like Brahmins, Baniyas, Bhumihars, Kayasthes etc. In light of Harijans and others Dalits being called the lowliest backward castes, these peasants are considered as Other Backward Caste (OBC). These backward castes are mainly agricultural (caste) class. They are numerically preponderant and socially aspirant in the wake of their acquiring well off position following agricultural development (Pravin Sheth, "Development and Social Conflicts": Harijans in the Countryside)".

Let us analyse the process of social mobility of Backward classes. At the outset, several castes such as Ahirs in many parts of North India, the Gopals in Bengal, the Gowlis in Maharashtra, the Gollas in Andhra Pradesh and Karnataka and the Konars in Tamilnadu - claimed descent from the Yadu dynasty (a famous Kshatriya dynasty in Hindu mythology) to which Lord Krishna belonged. Subsequently, they organised themselves into an All India Yadava Association. In parts of Bihar Yadavas donned the sacred thread (symbol of the twice-born) in public, this led to conflict between them and Bhoomihar brahmins.

This process of social mobility is an attempt on the part of backward caste groups, to enhance their social identity. It is a protest and a challenge against the upper castes in terms of rituals. The opposite is the case of Tamilnadu, the total rejection of the brahmanical Aryan religion and culture. The Dravida Kazhagam Movement in Tamilnadu idealised the Dravidian culture and religion and attacked the Aryan culture and religion. The Mahar movement led by Dr Ambedkar was based on a protest ideology, namely, abandoning Hinduism altogether and embracing another religion (Buddhism).

The Mahars formed an important section of the scheduled castes of Maharashtra, constituting about ten percent of the State's population. Later, when the Mahars emerged as an articulated group it agitated for their civil rights. They achieved a separate identity in 1972, as the Dalit Panther movement, fashioned after the manner of Black Panthers of America. The Mahars of Bombay and Poona constituted the Dalit Panthers.

The Dalit Panthers were led by three literary men, namely, Namdeo Dhansal, Raja Dhale and J.V. Power. The movement gained momentum as a result of frustration among the urban youth who were victims of discrimination. The Dalit Panther manifesto appeals to all revolutionary groups to join them in destroying Hindu caste system.

Land-lords, capitalists and money-lenders were declared as their enemies. It aimed at an around revolution. The ideology of Dalit Panthers centres round a class-struggle. In fact that they believed that class struggle cannot be separated from anti-caste Hindu attitude. Thus we find the Mahar movement essentially a protest movement claiming equality and not accepting unequal status as Chamars.

To conclude, the ideology of these protest movements, among the Backward classes stems from religious, cultural, social and economic issues.

27.7.1 Tribal Unrest

Before we analyse the student protest movement a few lines about tribal unrest will not be out of context. The 1980's have witnessed serious unrest growing among the Tribals. The tribal unrest is manifesting itself in sporadic acts of violence and insurgency. Unless their basic grievances are attended, the unrest may emerge as a major challenge to Indian polity.

27.8 Youth and Student Protest

Restlessness among youth in India is a matter of serious concern. Lack of meaningful employment, with a bleak future, compounded by weakening of values in all walks of life, have resulted in various forms of protest, more often expressing itself in the form of violence and arson.

Many studies have been conducted to know the causes of the Indian student's unrest.

The following causes have been identified as the source of their unrest:

1. The defective and inadequate system of education especially at the level of higher education.
2. The generation gap and alienation of the student community.
3. Social changes and impact of western civilization.
4. The influence of mass-media, specially films which were responsible for lowering of standards of public morality.
5. Gap between planning and performance.
6. Interference of political parties.

The protest movements of students in many cases have emerged because of cumulative effect of some of the above causes. In 1970s, specially in 1972 alone, as many as twelve states viz., Andhra Pradesh, Assam, Bihar, Kerala, Maharashtra, Karnataka, Punjab, Rajasthan, Tamilnadu, Uttar Pradesh and Delhi were affected by student protest on a large scale.

In many developing countries, the students upsurge has become an important factor in the process of social revolution.

In India, students are, fighting against the educational system as a whole. Mass agitations have been launched against the political corruption.

We have revolutionary students whose aim is to change the entire social order through agitation. We will analyse, in brief, the Gujarat and Bihar protest movements.

27.9 Gujarat Protest Movement

The political upheaval which rocked Gujarat for two months in 1974, was most important protest movement in the history of post-independent India.

The protest movement was spearheaded by the student community and the agitation took various forms such as processions, demonstrations, fasts, gheraos, burning, violence, arson etc. More than hundred persons were killed. As a consequence the Assembly was suspended and the Presidents rule was imposed. The impact of the movement had a far reaching effect on the political structure of the state. 95 of the 165 MLAs resigned from the House. Corporators of Ahmedabad, Baroda and surat resigned enblock. Several Congressmen resigned from the party. The Assembly was dissolved subsequently.

Spiralling prices, scarcity of essential commodities and inadequacy of basic amenities in urban areas provided a fertile ground for the massive upsurge in Gujarat. Students, the better articulated and organised sections of the middle class, spearheaded the agitation under the radical leadership of "Navnirman Samithi". Unlike students in other states, the students in Gujarat were not fighting for any issue or ideology. They made it clear, right from the beginning that they had declared war against certain evils, against practical problems prevailing in Gujarat. They repeatedly denied any connection with political parties. Hundreds of groups participated in this movement. This resulted in not clear cut political programme. The agitation initially started with a protest against price rise and scarcity of foodgrains as mentioned earlier. As the agitation continued the issues such as resignation of Chimman Bhai Patel, the then Chief Minister, dissolution of the State Assembly, misuse of MISA, police atrocities, injustice to Gujarat in the context of the construction of the Narmada Dam etc., were the key issues.

The political programmes, never became clear. John R. Wood an astute analyst of Gujarat political puts it: "There was no close link between tactics and demands. The movement moreover was characterised as a popular upheaval".

This upheaval succeeded in the removal of Chimman Bhai Patel and the dissolution of the State Assembly. More than this, the Gujarat protest movement had a chastening effect on the public organisations. They

were fighting for a cause which was clear to the people of Gujarat. With the success of students in the Gujarat struggle, students in other states also realised the need for unity with which they could wield power. Jaya Prakash Narayan realised the potentials of student power and strived to institutionalise their strength.

27.10 Bihar Protest Movement

The seeds of student upsurge had been sown in Feb. 1974 at the State Student leaders conference held on 17th and 18th Feb. 1974, under the auspices of Patna University Students Union. A number of problems were discussed. The leaders demanded a complete change in the present educational system so as to inculcate nationalism and economic and social consciousness among the students.

Some important recommendations were: the need for job-oriented education, lowering of voting age, eradication of corruption and punishment of corrupt politicians and officers, equitable distribution of essential commodities, check on price rise of essential goods and solution to unemployment problem. They resolved to launch a strong mass agitation for the fulfilment of an eight point programme and urged Shri Jaya Prakash Narayan to direct and guide the Committee. The students aimed at not only solving their problem but also the common man's problems in general.

Jaya Prakash Narayan took the opportunity of gearing up the student movement. He appealed to the students to give up their studies for a year to "Save Democracy". Meanwhile, the upsurge of the "urban middle class crystallized in a movement under the leadership of Jaya Prakash Narayan."

The movement raised several issues and launched many programmes.

The leaders asserted that the movement aimed at bringing a total revolution in society. The Bihar Chhatra Sangharsh Samiti (BCSS, a committee of the non-communist students) was the central organisation of the movement. During the course of the movement, conflicts among the major groups surfaced. This resulted in the emergence of a non-student central organisation i.e., the Bihar Jana Sangharsh Samiti (BJSS) when subsequently Sri Jaya Prakash Narayan took over the leadership of the movement. On 5th June, 1975, Jaya Prakash Narayan announced "Total revolution that is social, economic, political, moral and cultural revolution. He emphasised the "internal and external change, changing the entire social frame from within and also from the outside, individuals as well as institutions".

Jaya Prakash Narayan while launching this movement gave a long list of proposals rather than a strategy for the various stages of revolution. This list is as follows:

Agricultural development, equitable land ownership; application of appropriate technology to agriculture such as improved labour-intensive tools and gadgets; development of domestic and rural industries and the widest possible spread of small industries, regional planning and development, political and administrative decentralization, radical educational reforms to destroy the elitist character; dismantling the hierarchical caste structure of Hindu society; dismantling also the economic hierarchical structure in manner that did not discourage production and create a privileged class of managerial bureaucracy linked with the political and administrative structure".

The movement placed various issues like price rise, educational Problems, corruption, democracy, and dissolution of state assembly.

The movement which began on economic and educational issue gradually became political in character. The ideology which guided the Bihar movement was the Sarvodaya ideology, yet most of the constituent parties of the Bihar movement did not share the ideology of the Sarvodaya. They were not for a revolution. They were primarily interested in the removal of the Congress government and seizing the political power for themselves.

Ghanshyam Shah, whose work we cited, says "the movement had side-tracked economic issues and raised political and moral issues. The suggestion on electoral reforms looked into the convenience of the

opposition parties rather than spelt out ways of curbing money power so as to revolutionize the electoral system. Similarly, "revolutionary education offered nothing more than the courses offered by the present day universities and private coaching institutes. His crusade against corruption touched only the symptoms but not the disease. He ignored the corruption of his supporters and attributed that to the Congress party. The issues aroused only emotions."

An analysis of the Bihar Movement shows that it failed even as a reform movement. First, it was founded on the wrong assumption that it was a revolutionary movement. Secondly, too many issues were at stake, hence it failed to provide a clear - cut programme. The movement had the characteristics of a protest movement, protest against Congress rule.

It is rather paradoxical that these student community and youth who were in the forefront of the Gujarat and Bihar protest movements in 1970, were once again in the forefront of another agitation in 1980's against reservations - a measure intended to bring social justice and consequential change in the social system.

27.11 Summing up

The analysis shows that protest movements, such as peasant movement of the Telangana and the Backward class movements especially the Dalitpanther did not project ideological content.

The major protest movements in post-independent India, the Gujarat and Bihar protest movements, had created a major political upheaval not because of any ideological content nor the involvement with political parties, but because of one single pertinent factor i.e., the power of youth and the students. Though initially it appeared that the Bihar movement rested on the Sarvodaya ideology, but inner contradictions within the leadership on the question of a given ideology made the Sarvodaya ideology a fragile one.

With all the limitations and shortcomings, these movements had their own impact on the system.

The peasant movements initiated consciousness towards agrarian reforms in terms of land reforms and other institutional changes which strove to change the agrarian structure. The Gujarat and Bihar movements stemming from basic economic issues made a considerable dent on the political power structure.

27.12 Suggested Readings

Manorajane Mohan, Revolutionary Violence.

27.13 Model Questions

- I. Answer the following questions in about 30 lines.**
1. Define a protest movement and examine the various types of Protest Movements ?
 2. Describe the Telangana Peasant Movement ?
 3. Trace out the origins of the Naxalbari Movement ?
 4. Gujarat Protest Movement was the most important student's revolt since post-Independence-Comment.
 5. What were the factors that led to Bihar Protest Movement.
- II. Answer the following questions in about 15 lines.**
1. Comment on Jotedari and Jotedari-adhiari systems.
 2. The decisions of the 1967 Naxalbari conference.
 3. Comment on the Sharad Joshi's famous agitation in Maharashtra.
 4. Discuss the emergence of Backward classes Movement.
 5. Identify the various causes that led to Youth and Students unrest.
 6. Comment on Jaya Prakash's role in Bihar Protest Movement.

-- Prof. F.D. Vakil

Block - VI : ISSUES

Unit - 28 : National Integration: Problems & Prospects

Contents

- 28.0 Objectives
- 28.1 Introduction
- 28.2 Regionalism
- 28.3 Linguism
 - 28.3.1 Communalism
- 28.4 Tribal Separatism
- 28.5 National Integration Council
- 28.6 Suggested Questions
- 28.7 Model Questions

28.0 Objectives

After going through the unit you will be able to:

- * Explain the term 'national integration'
- * Outline the factors for disintegration in India and
- * Identify the role of National Integration Council

28.1 Introduction

Problems of national integration in India and attempts made in the form of National Integration Council and the recommendations thereof will be discussed in detail. The problem of integration in both structural and functional framework is dealt with in the lesson.

The term national integration implies a strong sense of national identity and feeling. It involves psychological and emotional involvement as a part of the nation and nationhood. A spirit of sacrifice for the cause of national integration. Very often we witness violence, between communities or religious groups. This means religion has come to be identified as a dividing line between people of different communities. Similarly, extreme attachment with a particular region in preference to the whole country brings a line of distinction in the attitudinal attachment of the people. People inhabiting a region, feel psychologically apart and not common with others, a sense of grievance, prevails which comes in the way of their identification with nation. Such situations are usually viewed as the problems of integration.

India represents a spectrum of diverse religions, linguistic and racial groups. It is said that nowhere in the world there are as many diversities as they are in India. In other words, India is essentially a pluralistic society and the problems of integration are therefore, not uncommon. Historically, the problems of diversities are a reality in India.

According to Almond and Powell, one of the chief functions of the modern political system is integrative function. This signifies the continuous process of absorption and accommodation of the common people into the mainstream of national life. Almost all the developing societies, which are called traditional and transitional societies, have been experiencing the problems of integration. The ethnic conflicts in Nigeria, for example, led to a civil-war. The disintegration of Pakistan is another instance to show the problem of integration. The ethnic conflicts in Sri Lanka also unmistakably reveal the threat to integration. Therefore, all the developing societies have to face and overcome the force of disintegration till they internalize such forces.

According to Milton Esman, even the developed countries are not free from the ethnic differences. In this context he gives the instance of U.S.A. where the Italian, British and German ethnic migrants have a strong sense of separate identities, although English is the common medium of communication for all of them.

In view of the multi-lingual, multi-religious character of the Indian society, the constitution of India has evolved as institutional 'consensus' establishing a democratic, secular federal republic. This was done with a view to accommodating the diverse elements of Indian Society. In spite of forty three years of independent national life, the consensus has been questioned and challenged by the forces of separatism and fissiparous tendencies. These forces manifested mainly in the form of regionalism, communalism and linguism. Therefore, the main task before the nation is, how to overcome these problems and establish a cohesive and an integrated society.

28.2 Regionalism

In the post-independent period, regionalism has been manifesting in various forms; beginning with the movement for the reorganization of the States to the movements for secession and separate statehood.

In different parts of India, there were demands for reorganization of the States during the British period. The Indian National Congress had also adopted a resolution in this regard. However, after the independence, the Andhra agitation for separation from Madras Presidency culminated in the death of Potti Sriramloo who went on a fast unto death. Consequently in the year 1953 separate Andhra State had been created. This was followed by a series of agitations for the reorganization of States. In response to it, Fazal Ali Commission was appointed by the Union Government in 1955 to recommend ways and means for the reorganization of States. In the year 1956 linguistic reorganization of the states took place. But this did not end the chapter of reorganization. The demand for the bifurcation of Bombay state and Punjab too witnessed violent incidents. As a result Bombay was bifurcated into Maharashtra and Gujarat, Punjab into Punjab and Haryana respectively. Dr. S. Radhakrishnan former Vice-President of India, speaking on language question said that the reorganization of states on linguistic basis, however necessary and desirable, has made people more conscious of their own language. We must get back to the time when these things did not play an important role.

Later, there were pressures for the reorganization of Assam. In 1970 Meghalaya was created as a separate state from Assam. In addition to these movements for reorganization, there were also sub-regional agitation and separate Andhra Agitations in 1969 and 1972 respectively. Vidharbha, one of the backward regions of Maharashtra also witnessed a violent agitation for creating a separate Vidharbha State.

The forces of secession, represented by certain regional parties, have demanded secession from the country. The Dravida Munnetra Kazhagam (DMK) of Tamil Nadu and Akali Dal of Punjab, on certain occasions, demanded that separate independent sovereign States of Dravidasthan and Khalistan be created. Similarly, the underground organization of Naga National Council in Nagaland and Mizo National Front in Mizoram, have been waging a violent resurrection for a separate identity from the country. All these pose a serious threat to the integrity and unity of the country.

Another feature of regionalism in India manifests in the emergence of regional parties advancing their own regional interests. They are Dravida Munnetra Kazhagam (DMK), All India Dravida Munnetra Kazhagam (AIADMK), Telugu Desam, Akali Dal and National Conference and a host of other small regional parties. The major threat of those regional parties lies in the elimination of national parties in their region. For instance, in Tamilnadu there cannot be any political party other than DMK or AIADMK. Right from 1970's Tamil Nadu has been under the government of either of the regional parties. By their very nature, these regional parties have no national perspective or planning. Similarly, the rise of Telugu Desam party in Andhra Pradesh is yet another manifestation of regionalism. For the first time a non-Congress Government has assumed power in Andhra Pradesh since its formation in 1953. The trend, therefore, reveals that in South India the role of national parties appears to be coming to an end. If similar situations develop elsewhere, in country, what would happen to central government, is an alarming question indeed.

28.3 Linguism

The multi-lingual character of India posed a serious problem for the official language. There were 1652 languages in India. Besides the 15 languages listed in the constitution, there are 1652 languages in India

(1961 census), the framers of the constitution laid down in Article 343 that (1) Hindi in Devanagiri script shall be official language of the Union; (2) English shall continue to be used for all official purposes till a period of 15 years from the commencement of the constitution till the change over to Hindi takes place. In 1955 the Official Language Commission was appointed by the President Dr. Rajendra Prasad. The Commission recommended increased use of Hindi for official purpose in Place of English. The linguistic reorganisation of States made the people conscious of their own language and its importance. They felt that the study and promotion of their own language of English was likely to be more beneficial than study of Hindi. When the official language commission's recommendations became public, they evoked mixed reaction. While the Hindi-speaking states welcomed them, the non-Hindi speaking people expressed opposition. On 26th March 1958, the West Bengal Assembly resolved that the state would not accept Hindi as the official language and that English would be retained. The Akali Dal in Punjab refused to own Hindi and launched an agitation in favour of a uni-linguistic Punjabi-speaking State. Assam State legislature also disowned Hindi in favour of Assamese language and asserted that it will be the official language of the State.

In the southern State of Tamilnadu a strong anti-Hindi agitation surfaced. The General Council of DMK announced on 10th June 1963, that it would launch 'direct action' campaign against the imposition of Hindi and official language Bill. The copies of Part XVII of the constitution, dealing with official languages, were publicly burnt. Several hundreds of DMK workers courted arrest. The announcement that Hindi would be the official language with effect from 26th January 1965 caused resentment in Tamilnadu. Students formed Anti-Hindi agitation council and launched a widespread agitation resulting in violent rioting, destruction of public property, police firing and deaths. The Andhra Pradesh legislature adopted on June 6th, 1964, a Bill providing for the continued use of English for the transaction of legislative business after 25th January 1965. There were protests and demonstrations, which also spread to Mysore and Kerala.

Mr Lal Bahadur Shastri, the then Prime Minister, reassured that English would continue as an alternate language as long as people desire it.

Because of these incidents, there could not emerge a consensus on the official language issue among the States and the people of southern states in particular. The three language formula in the educational institutions seems to be gaining acceptance as a tenable solution.

The linguistic chauvinism has erupted in the Shiv Sena movement and the 'sons of the soil' theory of Maharashtrians. Local and non-local or mulki and non-mulki factors also have come to be associated in the matter of employment. Therefore, this trend of 'love for one's own language' — will it contribute to strengthen national identity or otherwise - is an issue of great concern'.

28.31 Communalism

Indian society is conspicuously characterised by a composite communal formation. Moghul empire left the Islamic influence on this soil, resulting in cross-religious formations of Indian society. There are many communities and religious faiths in India, chief among them being the Hindus, the Muslims, the Sikhs, the Anglo-Indians, the Parsees and the Buddhists etc. The Hindus constitute the majority, the others constituting minority communities.

It is believed that the British rulers divided the Indian populace into separate watertight compartments in order to strengthen and continue their domination. They had adopted the policy 'Divide and Rule', resulting in Muslim communalism as represented by Muslim-League which became a strong counter-force to Indian nationalism. Added to it, the Acts of 1909, 1919 introduced separate communal electorates to sow the seeds of communalism. The culmination of the politics of communalism of the Muslim League led by Jinnah and his Two-nation theory resulted in the partition of India, and Pakistan was created.

However, the partition of the country did not end communalism and its concomitant violence. In 1961, Hindu and Muslim students of Aligarh Muslim University clashed and the trouble soon spread to several

towns of Uttar Pradesh, Bihar, West Bengal and Madhya Pradesh. The worst communal riots occurred in 1969 at Ahmedabad when a cow knocked down a number of Muslims near a mosque. The Muslims chased the cow which infuriated the Hindus as a result 600 to 1200 lives were lost. This is only an instance to show how sensitive is the problem with communalism. Riots have become a periodic communal feature. The frequency of communal violence is very high in Gujarat, Uttar Pradesh, Maharashtra, Bihar and Andhra Pradesh.

The communal organisations like Ittehad-ul-Muslameen, R.S.S., Jamat-E-Islami and Hindu Mahasabha share responsibility for the communal disharmony. Political parties are also responsible for exploiting the communal factor for the electoral gains and narrow party interests. The recent events in Punjab before the military operations in the Golden Temple became a serious concern to the unity of India. The extremist activities of Bhindranwale posed a serious crisis in Indian politics.

28.4 Tribal Separatism

The north-eastern region of India has been in the grip of tribal revolts. The militant tribal organisations -Naga National Council, Mizo National Front, have been waging an armed struggle against the Government of India. Their leaders like Phizo and Landenga have many a time asserted that they are not Indians and therefore, want to secede from India. These regions have been declared as disturbed areas, and armed forces deployed for containing the anti-national activities of extremists. Similarly the Jharkand Party of Bihar, the All party Hill Leaders conference etc., have been advocating sub-national loyalties.

An over-all view of the problems of National Integration shows that they are basically the problems of economic development. A sense of economic backwardness and frustration can assume any form-demanding secession from the country to the sons of the soil theory. The root cause of regionalism, sub-regionalism or communalism are all due to a sense of insecurity. Insecurity, springs from uneven development or lack of development. Therefore, all these primordialities, besides being sociological are to a large extent the manifestations of the basic problems of poverty, unemployment and exploitation. Therefore, any serious attempt towards national integration should begin with the pre-condition of eradicating poverty and insecurity and ensuring the basic needs. Problems of national integration are destined to exist if the basic needs are not met.

28.5 National Integration Council (NIC)

In the face of the massive communal riots in 1961, the first National Integration Conference was convened in Delhi from September, 28th to October 1st, to discuss and examine the problem of national integration. The Prime Minister, Cabinet Ministers, Chief Ministers of the States, leaders of the political parties and prominent educationists, writers and scientists attended the conference.

The main theme at the conference was "unity in diversity". National integration and the psychological process involving the development of feeling of unity, cohesion and solidarity in the hearts of the people and their loyalty to the country.

The conference observed that, politicians and political parties played a considerable role in fomenting communalism, regionalism and linguism to serve their own ends. Further, it laid down some of the norms of behaviour and conduct. They are (1) political parties should abstain from indulging in activities which aggravated the existing differences, created mutual hatred, or caused tensions between different castes, communities, religions or linguistic groups (2) parties should avoid taking agitational methods for the redressal of problems of communal nature (3) political power should not be used to serve party ends.

Again in 1974, the National Integration Council was convened in New Delhi which adopted a resolution recommending ban on the R.S.S. the Shiv Sena, the Jamat-e-Islami and Anand Marg. It also recommended that the reading-material in the educational institutions should be free from communalism. It also stressed

the economic problems of the minorities, and recommended that discrimination against minorities in the matter of service and other economic spheres must end forthwith.

On 13th August in 1980, the National Integration Council was convened as a sequel to the communal riots at Moradabad. The standing Committee of the Council was entrusted with the task of "constant watch" on the activities of communal forces. It also drew up a 8-point plan of action which stipulated that the governments of Uttar Pradesh, Bihar, Andhra Pradesh and Maharashtra should examine the problem of communalism from educational, historical, economic and social angles and should draw up a time-bound programme of implementation.

However, in spite of the National Integration Council's (NIC) recommendation, the problem of communalism continues to erupt periodically. And these problems continue as long as a massive economic transformation does not take place. Further, the political parties in India have failed to mobilize the people on a broad ideological plan which could have prevented the operation of the forces of primordialities. Attempts should be made to take people's consciousness to a higher level of issues and programmes.

28.6 Suggested Readings

Joan V. Bandurant -- Regionalism Vs Provincialism: A study of the problems of Indian National Unity

28.7 Model questions

I. Answer the following questions in about 30 lines.

- (1) Explain the importance of national integration in India.
- (2) What are the problems of the National Integration in India
- (3) What is National Integration Council and what are its recommendations?

II. Answer the following questions in about 15 lines.

- (1) States Reorganisation
- (2) Anti-Hindi Agitations.
- (3) Tribal separatism.

- Sri V.Ravindra Shastri.

Block - VII : A . P. STATE POLITICS

Unit - 29: Evolution of Andhra Pradesh

Contents

- 29.0 Objectives
- 29.1 Introduction
- 29.2 Growth of Political Consciousness
 - 29.2.1 Impact of Western Education
 - 29.2.2 Social Reforms
 - 29.2.3 Swadeshi Movement
 - 29.2.4 Growth of Vernacular Writings
- 29.3 Birth of Andhra Movement
 - 29.3.1 Andhra Conferences
 - 29.3.2 Home Rule Movement
 - 29.3.3 Non-Cooperation
 - 29.3.4 AICC at Vijayawada
 - 29.3.5 Chirala-Perala Struggle
 - 29.3.6 Boycott of Simon Commission
 - 29.3.7 Civil Disobedience Movement
 - 29.3.8 Andhra Movement in Telangana
 - 29.3.9 Andhra Jana Sangham
 - 29.3.10 Nizam Andhra Mahasabha
 - 29.3.11 Hyderabad State Congress
- 29.4 Role of Communist Party
- 29.5 Struggle for formation of Andhra State
 - 29.5.1 Sri Bagh Pact
 - 29.5.2 Dar Commission
 - 29.5.3 JVP Report
 - 29.5.4 Swami Seetaram's Fast
 - 29.5.5 Pottisriramulu's Fast
- 29.6 Formation of Andhra State
- 29.7 Emergence of Andhra Pradesh
- 29.8 Suggested Readings
- 29.9 Model Questions

29.0 Objectives

After going through the unit you will be able to:

- * Sketch the growth of political consciousness among the masses in Andhra
- * Trace the Origin of Andhra Movement and
- * Note the struggles for formation of separate state

29.1 Introduction

Andhra Pradesh has a long political history. Right from 1920s, freedom struggle caught up with the Telugu-speaking people of the erstwhile Madras Presidency. Influenced by the leadership of the Indian National Congress, Telugu people played a prominent role in the struggle for national independence. Simultaneously the desire to have a separate state for Andhras made them to bring pressure on the national leadership of the Indian National Congress. Their persistent efforts bore fruits and in 1953, Andhra State was formed - the first linguistic state that was to come into being. Then along with the Telugu-speaking people of Telangana of former Nizam State through the efforts of various broadminded leaders and parties Andhra Pradesh came into existence in 1956.

29.2 Growth of Political Consciousness

During the 19th Century, the Telugu areas of the Madras Presidency, particularly the Ceded districts suffered from famines and drought. However, after 1950's because of the construction of dams in Krishna Godavari district's agriculture prospered. This prosperity of the agricultural community lent fillip to trade and commercial activities which in turn promoted political consciousness.

29.2.1 Impact of Western Education

Along with the improved conditions of the peasant community, the demand for the extension of educational facilities led to the establishment of colleges in Machilipatnam, Rajahmundry, Visakhapatnam, Berhampore, Guntur, Nellore and Kakinada.

29.2.2 Social Reforms

A spirit of social reform started spreading in the Telugu districts of former Madras Presidency as a consequence of western education. Kakkōnda Venkataratnam Pantulu founded the Hindu Sreyobhivardhani Sabha in Madras in 1870 and began to educate people on the need for social reforms. Paravasthu Rangacharyulu, a year later, organised the Arsha Mata Sabha in Visakhapatnam which highlighted the importance of Hindu scriptures and religion, mainly to counteract the large scale conversions by the Christian missionaries.

In the sphere of social reforms, however, Kandukuri Veeresalingam stands foremost. He wrote a number of books on a variety of subjects to propagate modern ideas and culture and started Vivekavardhani a monthly journal. He founded the Hitakarini Samajam and performed a number of widow-marriages. He campaigned ceaselessly for the education of women, abolition of the dowry system and widow remarriages.

29.2.3 Swadeshi Movement

The victory of Japan over Russia in the Russo-Japanese War (1904-05) and the partition of Bengal led the Congress to organise the Swadeshi Movement. It affected Andhra too. In October 1905, an industrial institute was formed in Rajahmundry to take necessary steps to encourage local and indigenous industries. In Madras and other towns several local industrial organisations have been founded to encourage local trade and commerce.

The Swadeshi movement gave birth to national educational institutions and through the efforts of Kopalle, Hanumantha Rao, Mutnuri Krishna Rao, the founder of 'Krishna Patrika' and Dr. Bhogaraju Pattabhi Seetharamayya the National College was founded in Machilipatnam. Bipin Chandra Paul and others national leaders toured Andhra areas and popularised the slogans of Vande Mataram and Manade Rajyam. Poets like Lakshminarasimham, Gurazada Appa Rao and Rayaprolu Subba Rao exhorted the people to be patriotic and to be good Indians.

29.2.4 Growth of Vernacular Writings

The Swadeshi movement in Andhra areas gave encouragement to the spread of writings in Telugu language. K. Lakshmana Rao, along with G. Harisarvothama Rao and A. Kaleswar Rao started the Vignana Chandrika Mandali in 1960. Its main objective was to bring out publications on history and biography. Among the books brought out by the Mandali mention may be made of Hinda Maha Yugamu containing a brief account of the Andhra empire.

Similar organisations have come up in other places also. At Machilipatnam the Andhra Bhashabhivardhani Sangam, the Andhra Pracharini Grandhamala in Rajahmundry brought out publications of the translated works of Bengali novels. All these factors strengthened the political

consciousness among the Andhras, particularly in the coastal districts. Thus the ground for the Andhra movement was well prepared by the end of the first decade of the twentieth Century.

29.3 Birth of the Andhra Movement

While realising their past glory Andhras became keenly aware of their backwardness also. Even though the Telugu areas accounted for 40 per cent of the people and 58 per cent of the territory of the Madras Presidency, they had no effective voice in the politics of the Madras State. They were dominated by the Tamilians in all spheres of the public life. In the cadre of Presidency appointments there were only 8 Telugus compared to 56 non-Telugus. In the Judicial Service there was not even a single Andhra holding the position of a District Judge even though there were 19 non-Telugu District Judges. This apart, educational institutions in the Telugu-speaking towns of Bapatla, Machilipatnam, Narasapuram, Rajahmundry, Visakhapatnam and Parlakimidi were headed by the non-Telugus. Hence the Telugu-speaking people became apprehensive of their future in the Madras Presidency. Therefore, by the end of 1911, they began to advocate a separate Andhra Province.

29.3.1 Andhra Conferences

The first Andhra Conference met at Bapatla on May 26, 1913. It was attended by 800 delegates from the Telugu districts of the Madras Presidency. This conference sought to pass a resolution for the formation of an Andhra Province but could not succeed as some of the leaders like Nyapati Subba Rao, Mocherla Ramachandra Rao and Gooty Kesava Pillai felt that the demand for separate Andhra Province was premature.

The Second Andhra Conference, which came to be known as the Andhra Maha Sabha was held at Vijayawada on April 11, 1914. A resolution on the need for a separate state was passed by an overwhelming majority.

The Third Conference of the Andhra Maha Sabha which met at Visakhapatnam in May 1915 not only reiterated the demand for separate Andhra Province but also demanded the introduction of mother tongue i.e., Telugu as medium of instruction in secondary schools. Andhra Maha Sabha Conferences popularised the habit of addressing public meetings in Telugu. The Fourth and the Fifth Conference were held in May 1916 and June 1917 at Kakinada and Nellore respectively.

From 1916 onwards issues of national importance like co-operation between the Congress and the Muslim League and the demand for the Home Rule came to the forefront. The Andhra leaders diverted their attention to other issues concerning the national movement and the demand for separate Andhra Province receded into the background.

29.3.2 Home Rule Movement

The Home Rule movement of Anne Besant became very popular in Andhra areas. Several branches of the Home Rule League were established in towns like Guntur, Vijayawada, Machilipatnam and Kakinada. Many prominent leaders including Konda Venkatappayya, Pattabhi Seetharamayya, Kasinathuni Nageswar Rao, K.V. Reddi Naidu joined the League. Gadicherla Harisarvothama Rao brought several pamphlets explaining the various aspects of the movement.

Home Rule movement became a focal point of discussion at various district conferences. Resolutions, in favour of Home Rule, were passed at the District Conferences of Ganjam, Visakhapatnam, Godavari, Krishna and Guntur.

As an auxiliary of the Home Rule Movement, Mrs. Anne Besant started a National Educational Scheme at Madanapalle in Chittoor district which later became an important educational institution. This movement also led to the establishment of the Andhra Jateeya Kalasala at Machilipatnam.

29.3.3 Non-Cooperation Movement

Gandhi started the non-cooperation movement in order to paralyse the British administration in alliance with the Khilafat Movement. The programme included the boycott of legislatures, law courts, government offices and colleges. The first person to respond to the call of non-cooperation in Andhra was Ayyadevara Kalewar Rao. He withdrew his candidature from the Legislative Council. Konda Venkatappayya resigned his membership of Madras Legislature.

29.3.4 A.I.C.C. Session of Vijayawada

The All India Congress Committee met at Vijayawada on 31st March and 1st April 1921. This session was an important event for the Telugu people. It was at this session that Pingali Venkaiah designed the tricolour flag for the Congress. As per the directives of the A.I.C.C., Andhra joined the rest of the country in boycotting the visit of the Prince of Wales. The hartal at Vijayawada in this connection was total and spontaneous.

29.3.5 Chirala-Perala Struggle

Chirala and Perala are the two nearby villages in Bapatla taluk of Prakasam district. The collection of taxes (revenue) from these two villages did not exceed Rs. 4,000/- per year. In 1919, the Madras Government combined these two villages into one municipality and imposed taxes to the tune of Rs. 40,000/- without rendering corresponding services. Despite several representations, the government refused to revoke its decision. Then the people of these two villages under the leadership of Duggirala Gopalakrishnaiah, launched a "no-tax campaign" and refused to pay the municipal taxes levied on them. Their protest movement continued despite arrests and harassment by the government.

On March 30, 1921 Gopalakrishnaiah met Gandhi at Vijayawada who advised him to continue the struggle and evacuate their houses in the villages so that the municipality will disappear automatically. People followed the advice of Gandhi and 13,172 out of 15,326 villagers evacuated their homes and settled on the outskirts of their village. They stayed away from the village for nearly one year. They faced several problems, including the dislocation of business and the lack of financial support. Gopalakrishnaiah, when he visited Berhampore for collecting the funds, was detained by the Government. His arrest demoralised the people of Chirala-Perala and they all returned to their original homes. During the years 1924-27 the political situation in Andhra was comparatively quiet. The Andhra Maha Sabha became ineffective as the members took more interest in national affairs. The only success of the Andhra movement around these years was the establishment of Andhra University at Visakhapatnam in 1926.

29.3.6 Boycott of Simon Commission

On November 8, 1927, the British Government announced the appointment of Simon Commission, to report on the working of the reforms of 1919. As there was no Indian among the members of the Simon Commission, the Congress leadership asked the people to boycott it. As per the directives the Municipal Councils of Tirupati, Kurnool, Vijayawada, Eluru, Srikalukam passed resolutions in favour of boycott. On February 3, 1928, "hartal" was observed in almost all Andhra towns. The government selected Guntur and Ongole as two Andhra towns for the visit of the Simon Commission.

Check Your Progress - 1

What was the result of Chirala Perala struggle?

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T.Prakasam, V.V.Jogaiah and Ramadass issued a joint appeal particularly to the people of Guntur and Ongole to express their resentment by boycotting the Commission. When Simon and his members halted at Vijayawada railway station, on their way to Guntur the members of the municipal council handed over to Simon the boycott resolution and also shouted the slogan "Simon Go Back". The Commission was greeted with black flags at Guntur and Ongole.

29.37 Civil disobedience Movement

On April 6, 1930, Gandhi launched Civil Disobedience movement by marching to Dandi with seventy eight followers to break the laws pertaining to the manufacturing of salt. He gave a call to the nation for a mass movement of Civil Disobedience.

The Andhra Congress Committee appointed Konda Venkatappayya as the organiser incharge of the entire Andhra region to carry on the Satyagraha movement. Prominent among those who led the movement were K.Nageswar Rao, Durgabai, Gadde Rangayya Naidu and T.Prakasam. A significant feature of this movement was the participation of women in thousands. Bharati Devi Ranga, Vellabhaneni Seethamahalakshamma and Khammampati Manikyamba are the few names amongst the many who courted arrest.

29.3.8 Andhra Movement in Telangana

While the Telugu-speaking people of coastal Andhra became politically active following the Vandemataram movement, people in the Nizam State acquired political consciousness only during the 1920s. The Nizam State consisted of Telugu, Kannada and Marathi-speaking people besides Muslims. However, the language of administration and Urdu was medium of instruction in educational institutions. The Osmania University was established in 1918 and Urdu was the medium of instruction in all disciplines.

29.3.9 Andhra Jana Sangam

Although the population of Telugu-speaking people was fairly large in number, they received very little attention and patronage from the government. An organisation called the "Andhra Jana Sangam" was formed in 1921 with eleven members including Madapati Hanumanth Rao, B.Ramakrishna Rao, M.Narasimha Rao and Aadiraju Veerabhadra Rao to solve the problem. The first meeting of the Sangam was held at Hyderabad on February 14, 1922 and it was presided over by K.V.Ranga Reddy. At this meeting the name of the Sangam was changed into the 'Nizam State Andhra Janata Sangam'.

The 'Andhra Jana Sangam' aimed at the social, economic and cultural revival of the people of Telangana. Its programme included the opening of Telugu schools, libraries, publication of Telugu books and the promotion of historical research. Prominent among the books brought out by this organisation were 'Nizam Andhra Rashtra Prasansa' and 'Nizam Rashtra Andhrulu'. The first four conferences of Sangam were held at Hyderabad (1923), Nalgonda (1924), Madhira (1925) and Suryapet (1928). The Jana Sangam formed a historical research society called the 'Lakshmana Raya Parisodhaka Mandal' in honour of Komarraju Lakshmana Rao who was responsible for the establishment of the 'Krishnadevaraya Andhra Bhasha Nilayam, at Hyderabad.

29.3.10 Nizam Andhra Mahasabha

The first Andhra Maha Sabha in the Nizam State was organised by the leaders of the Telugu-speaking people in 1930, at Jogipet in Medak district. It was presided over by Suravaram Pratapa Reddy. At its sixth conference, in 1937, Andhra Maha Sabha resolved on the necessity for a responsible government in the Nizam State. Although the Andhra Maha Sabha was started mainly for the purpose of social and educational causes of the Telugu-speaking people of Telangana, it became politicised with the entry of the communist leaders like Ravi Narayana Reddy, Baddam Yella Reddy and others. They clashed with the leadership of the Andhra Maha Sabha represented by K.V.Ranga Reddy, M.Hanumantha Rao and others and ultimately captured the organisation at its eleventh conference held at Bhongir in 1944.

29.3.11 Hyderabad State Congress

After the Sixth Conference of the Andhra Maha Sabha which was held at Nizamabad, some of the political workers and leaders formed the Hyderabad State Congress in 1938. The moving spirit behind this decision was Swami Ramananda Thirtha. A Provincial Committee consisting of B.Ramakrishna Rao, Ravi Narayana Reddy, Kasinath Rao Vaidya etc., was formed. However, the Hyderabad State Congress was banned by the Nizam Government in the same year.

29.4 Role of Communist Party

The failure of the civil disobedience movement of the 1930s and Nehru's articles on socialism (1933-34) influenced many youngmen of Telangana to organise the Communist Party towards the end of 1939. Ravi Narayana Reddy, Baddam Yella Reddy, Devulapalli Venkateswar Rao were some of its prominent leaders. As the Communist Party was banned by the Nizam government, many of its workers joined Andhra Maha Sabha to carry on their campaign in rural areas.

Since the formation of the Communist Party, its members began to build up a peasant movement through the Andhra Maha Sabha. They took up the problems of tenancy, and forced labour of small and middle class farmers.

The Communist Party organised peasant struggle against the Nizam and the Jagirdari system between the years 1946-48 and fought for the accession of the Nizam state to the India Union.

29.5 Struggle for the Formation of Andhra State

The Andhra movement was an outgrowth of the general political awakening of the Telugu cultural renaissance. As a solution to the socio-economic backwardness of the Telugu districts and also to protest against the Tamil dominance in the government services of Madras the movement demanded the creation of a separate Andhra Province.

In 1913, the Andhra conference demanded the creation of a separate province for the first time. The announced policy of Montague-Chelmsford reforms raised hopes in Andhras that in future the Indian provinces would be organised on linguistic basis. As a matter of fact, the demand for a separate province became so strong that the Madras Legislature called for the creation of Andhra Province in 1927.

29.5.1 Sri Bagh Pact

Rayalaseema districts showed less enthusiasm for the creation of Andhra State as they were backward politically and economically. In order to dispel the fears of the Rayalaseema people an agreement was signed in 1937 by the leaders of Rayalaseema and Circar districts which came to be known as the "Sri Bagh Pact". Konda Venkatappayya, Kadapa Koti Reddy, Desiraju Hanumantha Rao, Kalluri Subba Rao, H.Seetharama Reddy and G.Harisarvothama Rao are the few names who signed the pact. The agreement conceded the following demands of Rayalaseema:

1. A weightage in the legislature, meaning an equal number of representatives from each district.
2. Priority for expenditure on irrigation in Rayalaseema
3. Rayalaseema was to have the choice of the capital or the High Court in the proposed state.
4. University for Rayalaseema

29.5.2 Dar Commission

With Independence in sight, the Andhra Maha Sabha renewed its activities. In April 1947, the Madras Assembly recommended the creation of linguistic states in the South. The Dar Commission was set up in 1948 to investigate on the feasibility of states' reorganisation. However, the Commission did not

recommend the formation of new provinces in the near future. Dar Commission did not consider language as the basis for the formation of a State.

29.5.3 J.V.P.Report

The Dar Commission's report created lot of frustration and disappointment among the Andhras. In order to assuage their feelings another Committee was appointed with Jawaharlal Nehru, Sardar Patel and Pattabhi Seetharamayya to probe into the desirability of linguistic states.

The J.V.P.Committee recommended a general postponements of creating linguistic provinces. However, in the case of Andhras the Committee accepted their demand for separate state but conditionally. The most important condition was that the Andhras should give up their claims on the Madras City. But; once again the Telugu people were disappointed.

29.5.4. Swamy Sitarama's Fast

Gollapudi Seetharama Swamy felt that nothing could be achieved without resorting to extra-constitutional methods since all the constitutional methods failed to secure separate Andhra Province. He undertook a fast unto death on 15th August, 1951. It created a great stir among the people of Andhra and the situation became highly explosive. Swamy ended his fast after 35 days on the advice of Acharya Vinoba Bhave, but nothing happened.

29.5.5 Potti Sri Ramulu's Fast

Meanwhile, in the 1952 General Elections, the Congress fare badly in Madras Presidency. However, the Congress was able to form the government with the help of some non-Congress parties excluding the Communists. Andhras, who became very restive over the question of a separate province lost their confidence in Madras government as it showed more interest in the Krishna Pennar Project to divert Krishna waters to Tamilnadu injuring the interests of Andhras. They started agitating against the project. In such a situation, Potti Sri Ramulu began his fast unto death on 19th October, 1952. On the 58th day of his fast Potti Sri Ramulu died while fasting. The martyrdom of Sri Ramulu created a great upheaval in Andhra. For three days disturbances went unabated and normalcy was restored only when Nehru announced that the Government of India decided to form Andhra state with the undisputed Telugu districts excluding the city of Madras.

29.6 Formation of Andhra State

On October 1, 1953, the Andhra State came into existence with Kurnool as its capital. The creation of separate Andhra State, accelerated the demand for other linguistic states. Therefore, the Government of India appointed a State's Reorganisation Commission on December 22, 1953. The Commission was asked to submit its report by the end of June 1955.

29.7 Emergence of Andhra Pradesh

With the accession of the Nizam State to the Union of India after the police action, there was a demand for the formation of Visalandhra - a greater Andhra - consisting of the Telugu-speaking districts of the Madras Presidency and the Telugu areas of the Nizam State.

Check Your Progress I

What was the capital for Andhra in 1953?

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The Commission visited Hyderabad in June-July 1954. The opinion in Telangana was divided. One section wanted a separate Telangana while the others preferred the formation of Visalandhra. Whereas in the Andhra State the opinion was unanimously in favour of Visalandhra.

The State's Reorganisation Commission, while accepting the economic and administrative advantages in having an integrated Telugu state, however, recommended the creation of separate Telangana State for the period of five years. It felt that Telangana might be merged with Andhra State after five years if two-thirds of its legislators express themselves in favour of unification.

The State's Reorganisation Commission's report displeased the protagonists of Visalandhra. So, they increased their efforts to achieve their objective. Ultimately they were able to win over the leadership of Telangana by agreeing to provide certain 'safeguards' to Telangana in the proposed unified state. The Andhra Congress leaders, B.Gopala Reddy, N.Sanjeeva Reddy, and Alluri Satyanarayana Raju held discussions with the Telangana leaders like B.Ramakrishna Rao, K.V.Ranga Reddy, J.V.Narsinga Rao and Dr M Channa Reddy. They reached an agreement on Telangana Safeguards. Both parties agreed that the unified state should be known as Andhra Pradesh. Thus Visalandhra, the dream of Telugu-speaking people, came into being on 1st November 1956, with Hyderabad as the capital city.

29.8 Suggested Readings

Prof.G. Ram Reddy and : Government and Politics in Andhra Pradesh
B.A.V.Sharma Ed.

29.9 Model questions

I. Answer the following questions in about 30 lines.

1. Describe the major events that accounted for the spread of nationalist movement in Andhra.
2. Trace the causes that led the Telugu-speaking people to demand a separate State.
3. Write an account of Andhra movement in coastal districts.
4. Discuss the growth of Andhra Movement in the former Hyderabad State.

II. Answer the following questions in about 15 lines.

1. Growth of vernacular literature.
2. Impact of western education on the growth of political consciousness of the Telugu people.
3. Explain the main features of Sri Bagh Pact.
4. Write an account of Chirala-Perala project.

--Dr.V.Krishna Rao

Unit-30: Political Developments In Andhra Pradesh

Contents:

- 30.0 Objectives
- 30.1 Introduction
- 30.2 Congress Dominance
- 30.3 Reasons for Congress Dominance
- 30.4 Decline of the Opposition Parties
- 30.5 Causes for the Decline of the Communist Party
- 30.6 Activities of the Naxal Groups
- 30.7 Introduction of the Panchayati Raj
- 30.8 Seperatist Agitations
 - 30.8.1 The Telengana Agitation
 - 30.8.2 Gentleman's Agreement
 - 30.8.3 Seperate Andhra Agitation
 - 30.8.4 Political Institutions
 - 30.8.5 Rising Communalism
 - 30.8.6 Emergence of Telugu Desam
- 30.9 Summing Up
- 30.10 Suggested Reading
- 30.11 Model Questions

30.0 Objectives

After going through the unit you will be able to:

- * Outline the reasons for congress dominance and its better fall and
- * Sketch the rise of Telugu Desam Party

30.1 Introduction

Andhra Pradesh came into existence in 1956 with the integration of the nine Telangana districts, The Circars and Rayalseema districts. From 1956 to 1983, Congress has been the ruling party and Andhra Pradesh often described as "the citadel of the congress" until the emergence of Telugu Desam.

30.2 Congress Dominance (1956-83)

In Andhra Pradesh the Congress Party had an unbroken record of success and has been in power for three decades. The opposition parties could not strike roots due to the dominance of the Congress. The Congress became a sort of banyan tree under whose shade no plant could grow. Therefore, intra-party competition was more rather than interparty competition.

Under the dominant one party system due to the absence of strong opposition parties, factionalism often prevails and this was more so in Andhra Pradesh. Factionalism in congress in the face of the declining fortunes of the opposition parties led to the creation of a strong opposition within the ruling Congress. Otherwise, during the period extending over three decades, there were no significant changes in the organisational structure of the Congress party, though there were some changes in its programmes and membership.

Groupism within the Congress is one significant feature in the organisation and working of the party. The prime reason for the formation of groups is due to the rivalry among the leaders for posts in the Cabinet or in the Organisation. Until 1969 the leadership of the Chief Minister and the party was more or less stable. The period following 1969 is significant for two reasons. Firstly, though a major split in the congress party at the national level took place (1969 and 1978) the party in Andhra Pradesh was not greatly affected. On both the occasions the rank and file had joined the group led by Mrs. Indira Gandhi which was the dominant group at the national level. No opposition could gain any significant advantage from the splits in the Congress. Secondly, the factionalism in the Congress led to two separatist agitations, first in 1969 and then in 1972 which were more a hand work of the congressmen rather than the grievances of the two regions.

Due to variety of reasons the position of the Chief Minister became weak. The so-called unanimous election and the nominated Chief Ministers encouraged more factionalism which resulted in the frequent change of Chief Ministers. All this coupled with bad administration and rampant corruption ultimately ended the rule of the Congress as it was defeated in the 1983 Assembly elections by the Telugu Desam.

30.3 Reasons for congress Dominance

One of the major political developments in the state was the total decline of the communist party which once was considered to be an effective alternative to the Congress. Though the CPI registered some significant gains in Coastal Andhra and the Telangana Districts of the former Hyderabad State in the 1951/52 elections, its influence on the masses immediately registered a nose dive in the 1955 mid term poll to the Andhra State Assembly. The CPI thought that it could form the government by itself and contested the election single-handedly without forming any alliance with the non-Congress parties. Whereas the Congress formed alliances and had seat adjustments with all small parties and minor splinter groups such as KLP, Praja Party, etc. This decision of the CPI to fight the elections alone, created a scare among the peasants. Communists unlike in the 1952 elections, were serious in forming the Government in the state and therefore likely to threaten peasant economic interests. This was more so because of the background of the Communist armed insurrection in Telangana (1948-51). The middle and rich peasant communities felt their economic interests safe with the Congress and extended electoral support to the ruling Congress.

The non - CPI opposition parties also failed to impress the people that they could offer a viable alternative to the congress. Moreover, most of these parties like the Swatantra Party, Socialist Party or even the Telangana Praja Samithi were splinter groups of dissident Congressmen who offered some positions of power. Therefore, they could not create any impression among the people and hence the congress received total support from the electorate to justify the claim of "Dominant Party".

Another reason for the Congress party's dominant position was that minorities Harijans and the backward classes were supporting the Congress and have become the party's vote banks. The implementation of 20 Point Programmes, land reforms, distribution of lands and pattas to the landless poor, the generous distribution of loans to the weaker sections and house sites created the impression that the congress stands for the poor, the downtrodden and for socialistic changes.

30.4 Decline of the Opposition Parties

Andhra Pradesh was aptly described as the citadel of the Congress. Ever since the formation of the state as a separate linguistic entity, the congress party had an unbroken record (1956-1983) of ruling the state.

After the formation of Andhra State in 1953, initially the Communist Party posed a challenge to the congress. However, its strength, popularity and the mass base steeply declined due to the splits in the Indian Communist movement in general and for a number of reasons in Andhra Pradesh in particular.

30.5 Causes for the Decline of the Communist Party

The Communist Party in the 1950's was a strong opposition to the Congress Party in West Godavari, Krishna, Guntur, Nalgonda, Khammam and Warangal which were described as "Red Districts". but within two decades, particularly from 1967, the strength of the Communist Party has declined. The reasons for the erosion in the popularity of the Communists are:

1. The adoption of the socialist policies by the congress such as the Avadi resolution of the AICC in 1955 the nationalisation of Banks, agrarian reforms, and the economic and populist measures blunted the radicalism of the CPI.
2. Factionalism and the splits within the Communist Party weakened its organisational strength.
3. The introduction of the Panchayat Raj in the rural areas led to the consolidation of the Congress Party's hold with the rural gentry as well as on the rural masses.

Check Your Progress - 1

Why did Communists in your opinion lost hold on Andhra Pradesh?

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(See Para 30.5)

4. The bourgeoisie peasant communities took seriously the slogans of the Communists and felt that their interests serve better with the Congress. Political Parties like the Praja Socialist Party and the Swatantra Party could not make any headway as they were considered to be the offshoots of Congress factions and splinter groups, while the BJP-former Jana Sangh - is yet to find roots in the State politics.

The emergence of the Janata Party in 1977 had some impact on Andhra Pradesh politics as several prominent leaders in the Congress joined its fold. Despite many expectations, the Janata Party failed to fight the Congress in 1978 state assembly elections, and today its legislative strength has been reduced to a lone member.

The main reason for the failure of the opposition parties in the State until the emergence of Telugu Desam could be attributed to the fact that the landed gentry like the Reddis and the Kammas happened to be the leaders of the Congress together backed by the Backward Classes and the Harijan Voters.

30.6 Activities of Naxal Groups

As a consequence of the Naxalbari movement in West Bengal, the militant ranks in the CPI (M) unit of Andhra Pradesh defected from the party and organised the Naxalite movement first in Srikakulam and then slowly spreading over the Godavari valley. Several groups led by the late Nagi Reddi, Chandra Pulla Reddy, Devulapalli Venkateswar Rao and Kondapalli Seetharamaiah were quite active for some time. However the stringent measures taken by the Government, particularly during the period of Vengal Rao, the Naxalite movement was contained to a certain extent.

The annihilation policy adopted by some of these groups failed to evoke public response although they were active in politicising the tribal areas of Srikakulam, Karimnagar, Khammam, Adilabad and Warangal. The Naxalite movement gradually lost its tempo and the CPI (M-L) groups owing to internecine and factional struggles failed to spread their influence among the masses.

In recent years naxalite activities have been on the rise. Of all the naxal groups, the People's War group led by Kondapally Seetharamaiah has been very active in districts like Karimnagar, Adilabad, Warangal, Khammam, Nizamabad and East Godavari. They have spread to these districts and organising the tribals for the redressal of their grievances. They are also adopting new techniques. For example, starting with the killing of the police officials to the kidnapping IAS officers. The naxals are causing lot of tension in the areas of the above mentioned districts. They have even resorted to kidnapping Mandal Praja Parishad Presidents belonging to the ruling Telugu Desam Party with a view to making the government to meet their demands such as the reconstruction of memorials of naxalites then stopping fake encounters and making a thorough enquiry in the alleged arrest of two naxalite leaders etc. Though the State Government has given them time to surrender and also were promises made by the government for the rehabilitation of those surrendered naxalites, still there is no improvement in the situation. They are far from becoming inactive and have increased their activities inspite of state government's stringent measures.

30.7 Introduction Panchayat Raj

Andhra Pradesh was the second state to introduce Panchayat Raj institutions, the first being Rajasthan. A three tier system of self-governing institutions was introduced in 1959 throughout the State. The Village Panchayats were constituted primarily on an elective basis. The Panchayat Samithi was constituted through indirect elections by Village Panchayat presidents within the block area, while the Zilla Parishads were elected by the presidents of the Panchayat Samithi.

Zilla Parishads were expected to co-ordinate the activities of Panchayat Samithis. These bodies are responsible for developmental activities which include the development of agriculture, improvement of cattle, sheep, poultry, promotion of local industries, supply of drinking water, maintenance of public health and sanitation, relief measures in times of natural calamities, construction of roads, management of schools and so on.

The Panchayat Raj institutions provided opportunity to the people to participate in development activities and politically consolidated the support base of the Congress Party in rural areas.

However, one unfortunate feature of the democratic decentralisation process in the State was that for nearly a decade no elections were held to these local self-governing bodies. After the last elections to Panchayat institutions in 1970, only in 1981 during the tenure of T. Anjaiah, elections took place. The bold decision of the then Chief Minister to hold direct elections to Panchayat Raj institutions upto Samithi level on non-party basis was hailed as one of the land marks in the political developments of Andhra Pradesh.

The TDP Government not only reconstituted the panchayat Raj institutions and municipalities but also simultaneously held elections to all these local bodies. Apart from this the State Government also introduced single window system by which a farmer was to get all his requirements from the same organisation. Single window system provides facilities to farmers like loans and agricultural inputs.

One of the major political developments in the state in recent times was the decision of the Telugu Desam Government to abolish the system of village officials such as Patels and Patwaris, Karanams and Munusabs, who were regarded as the historic links between the Village and the Government. This decision though bold and politically motivated received support from the people.

The state government also took the decision to introduce Mandal system as a substitute for the existing Revenue Divisions and panchayat Samithis. The Government thinks that Mandals serve better than the Samithis both in terms of development activities as well as efficient administration.

Mandal System

The ruling TDP Government abolished the Panchayat Samithis at the block level and replaced them with Mandals. This measure was intended not only to integrate the administration under a single unit but also to take the administration to the door steps of the people. However, the Mandal system was criticised on two grounds, i.e., (1) to extinguish the remnants of the congress support structure in rural areas; and (2) to distribute spoils to a great extent to the party functionaries operating at the local level.

In the election to these Panchayat institutions (rural and urban) the TDP secured 18 out of 23 Zilla Praja Parishads and about 600 mandals. In the case of urban bodies the congress party maintained a steady lead with the TDP. In these local elections except the CPM, TDP could not reach any electoral understanding with the non-congress opposition parties.

30.8 Separatist Agitations

Andhra Pradesh took the lead not only in the formation of the linguistic states but also in focussing the necessary of bridging the gap between regional economic imbalances, which resulted in two separatist agitations of separate Telangana and the Andhra agitation. These two agitations proved that language is no building factor for the integration of the state in the face of sub-regional demands.

Check Your Progress - 2

Outline any two major features of Mandal System

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30.8.1 The Telangana Agitation

The States Reorganisation Commission (1955) favoured a separate Telangana State as a viable unit and felt that the question of integration with Andhra could be ascertained after five years if 2/3rds of the Telangana Legislature considered it necessary. While prominent Telangana leaders like K.V. Ranga Reddy, Dr. M. Chenna Reddy expressed their dislike for the integration of Telangana and Andhra regions. Others like Swamy Ramananda Thirtha and Madapati Hanumantha Rao favoured "Visalandhra". Apprehensions of domination by the more enterprising Coastal Andhra people resulted in "Anti-Andhra" sentiments as early as in 1953.

30.8.2 Gentlemen's Agreement

However, the formation of Andhra Pradesh was made possible after a "Gentlemen's Agreement" signed by the leaders of both the regions on 20th February, 1956. Residential requirements for jobs, a Telangana Regional Committee, the proviso that if the Chief Minister is from Andhra, the Deputy Chief Minister should be from Telangana and vice-versa were among the important features of the agreement.

The following year, Parliament passed the Public Employment Act-requirements as to residence-which prescribes a 15 year residential qualification for employment in the Telangana region. There was also a provision for the renewal of the aforementioned Act after 10 years. As a result of this, the Mulki rules-which prescribed residential qualification for employment in the Nizam State-stood redundant on 20th January, 1958 the Andhra Pradesh Regional Committee order was promulgated by the President of India.

The main reason for the eruption of the separate Telangana agitation was the non-implementation of the Telangana safeguards. Understandably, the Telanganites felt that they were deprived of political clout in the sense that until then no leader from Telangana became the Chief Minister of the State. The very first Chief Minister of Andhra Pradesh Neelam Sanjeeva Reddy -dispensed with the position of the Deputy Chief Minister in contravention of the Gentlemen's Agreement by stating that it would be like a sixth finger and hence superfluous.

There were other grievances too; such as those related to Telangana services and Telangana surpluses. People of Telangana region believed that many non-Mulkis from Coastal Andhra had usurped their jobs and many more Andhras secured jobs on the basis of bogus certificates of residence. Another grievance was that the surpluses of Telangana were diverted to Andhra region for its development. Yet another fear was that Andhras were dominating the services.

Though the separate Telangana agitation did not achieve its primary goal of a separate Telangana, it however, secured for the region certain safeguards in the form of Six-point formula, continuation of Mulki rules, separate budget and accounts for Telangana, a separate Pradesh Congress Committee for Telangana and finally the resignation of the then Chief Minister K. Brahmanada Reddy in favour of a Chief Minister from Telangana region.

30.8.3 The Separate Andhra Agitation

The separate Andhra agitation of 1972 was a reaction to the Telangana agitation. The problems projected by both the agitations were essentially the same.

Politically the main reason for the Andhra agitation was the opposition of the powerful Kamma and Reddi landlords-the dominant peasant Communities - of the Coastal districts of Andhra and the Rayala seema to the land reform policies initiated by the then Chief Minister P.V. Narasimha Rao, a Brahmin from Telangana. This measure was viewed as a device to restrict the incomes of rich peasants from the delta districts of the Coastal Andhra.

However, the immediate cause for the Andhra agitation was the Supreme Court Judgement of validating the Mulki rules, which were earlier struck down by the High Court of Andhra Pradesh. The Chief Minister, P.V. Narasimha Rao commented that the decision of the Court was final and therefore the Mulki rules would continue. This infuriated the Andhras, and the anti-Mulki agitation was started by the students of the Coastal districts which ultimately demanded a separate state for the Andhra.

The separate Andhra agitation became intense and posed law and order problems. The Chief Minister P.V. Narasimha Rao resigned and the President's rule was imposed. In December 1973, President's rule was revoked when Jelagam Vengala Rao-an integrationist - was named as the new Chief Minister of Andhra Pradesh.

The separate Andhra agitation secured the following safeguards :-

1. Separate planning boards for the regions of Coastal Andhra and Rayalaseema.
2. A new Central University at Hyderabad.
3. Local candidates to be given preference to a specified extent in the matter of direct recruitment to non-gazetted posts and admissions to educational institutions.
4. A Tribunal to deal with the grievances of services such as seniority and promotion.

30.8.4 Political instability

Another interesting political development in the State was political instability despite legislative majority for the ruling party. This was more evident between 1972 to 1983. Infact, this instability in the leadership of the Chief Minister first became evident during the period of P.V. Narasimha Rao when his cabinet was divided on regional interests in the wake of the separate Andhra agitation. Though the Congress had absolute majority in the Assembly yet President's rule was imposed on the State for one year in the wake of the resignation of P.V. Narasimha Rao and finally Vengal Rao was brought in as the New Chief Minister.

From 1978 to 1983 Congress Party despite absolute majority in the State Assembly had to have four Chief Ministers from Chenna Reddy to Vijaya Bhasker Reddy. During the last days of Chenna Reddy's regime almost the entire administration stood paralysed because as many as sixteen of his Cabinet Ministers along with the dissident legislators camped in Delhi for more than two months to campaign against Chenna Reddy. The very fact that for more than two months he could not hold a Cabinet meeting and also that the State Assembly was convened only to meet the constitutional requirements, prove the failure of the functioning of the Cabinet system in the State. Again, the omnibus cabinet of T. Anjaiah could not save him. No Chief Minister was confident of continuation in office and therefore could not concentrate on administration and implementation of any policy. The above account only proves the fact that the tenure of the office of the Chief Minister is no longer co-terminous with the tenure of the State Assembly.

The political instability became evident during the period of Telugu Desam also. Despite his charisma and absolute majority in the Assembly, N.T. Rama Rao had to face a split in the party and he had to depend on the non-Congress opposition parties such as the CPI, CPI (M), BJP and some independents for his survival as Chief Minister.

30.8.5 Rising Communalism

Andhra Pradesh had long history of communal harmony and peaceful co-existence between different communities. However, from 1978 starting with the Ramijabee incident in Hyderabad, particularly the old city of Hyderabad has become the hotbed of communal riots which occur frequently with clocklike precision. The imposition of curfew has become more or less a regular feature in the capital city.

The frequent occurrence of communal disturbances has two important features. Firstly, of late they have become responsible for the revival of counter rituals by the Hindu Community celebrating "Vinayakachavithi and Dassara" festivals in a big way by organising massive processions. Secondly, these communal riots are no longer confined to the old city of Hyderabad. They are spreading to semi-urban areas also.

30.8.6 Emergence of Telugu Desam

Towards the first quarter of 1982, the matinee idol of Telugu screen N.T. Rama Rao floated Telugu Desam a regional party.

Cashing on the political instability because of intense factionalism among the ruling congress in the State, bad administration and rank corruption and the political instability causing the frequent change of Chief Ministers, Rama Rao campaigned vigorously touring the nook and corners of the State. He attracted huge crowds and soon projected his Telugu Desam as a viable alternative to the ruling Congress. For the first time in the state there was a party and a leader with charismatic hold on the people who projected himself as the champion of the Telugus.

In the 1983 state Assembly elections the Telugu Desam failed to arrive at an electoral understanding with the opposition parties such as CPI, CPI (M), BJP, Janata and the Lok-Dal, and put up candidates in all constituencies leaving four to Sanjay Vichar Manch of Menaka Gandhi. The Telugu Desam led by Rama Rao secured landslide majority and ousted the Congress from the position of a ruling party. Thus, the Telugu Desam ended the Congress era from the politics of Andhra Pradesh. The charisma of Rama Rao, his state-wide fans associations, the crude manner in which the congressmen carried their factional struggles and finally the bogey of so-called self-respect of Telugus clinched the electoral judgement in favour of the Telugu Desam.

In the State Assembly elections 1985, that followed the re-installation of NTR as Chief Minister, the TDP and her allies again scored resounding victory not only reducing the Legislative Strength of the congress party but also totally trouncing the so-called Democratic Telugu Desam, including its founder N. Bhaskar Rao.

30.9 Summing Up

Telugu Desam despite massive majority and the utterances of its leader - N.T.Rama Rao - against the so-called "Congress Culture" of factionalism, corruption, nepotism and scramble for the loaves and fishes office is treading on the lines of the Congress Raj only. Riven with intense factionalism, the recent struggle for power and the consequent split in the Telugu Desam ranks led by Nandela Bhasker Rao-the one month old Chief Minister of the State - and the virtual dependence of the Telugu Desam Ministry on the support of the numerically small opposition parties only proves the point that brands may change but politics essentially remain primordial and conducted on the basis of un-secular lines such as caste, religion, etc

30.10 Suggested Readings

V.Hanumantha Rao

Party Politics in Andhra Pradesh.

30.11 Model Questions

I Answer the following questions in about 30 lines.

1. Why Andhra Pradesh was considered as the citadel of the Congress Party?
2. Account for the decline of the opposition parties.
3. What are the factors that contributed for the emergence of Telugu Desam?

II Answer the following questions in about 15 lines.

1. Gentlemen's Agreement
2. Failure of the Communist Party.
3. Reasons for the out-break of separate Telangana Agitation.
4. Communal disturbances.

--Prof. F.D. Vakil

Unit-31: Electoral Trends In Andhra Pradesh :

The phenomenon of Telugu Desam Party

Contents

- 31.0 Objectives
 - 31.1 Introduction
 - 31.2 Phenomenon of Telugu Desam Party
 - 31.3 Electoral Strategies
 - 31.4 Split in Telugu Desam Party
 - 31.5 Summing Up
 - 31.6 Suggested Readings
 - 31.7 Model Questions
-

31.0 Objectives

After going through this unit, you will be able to:

- * Explain the phenomenon of Telugu Desam Party
 - * Note latter split and
 - * Identify the base of Indian State Politics
-

31.1 Introduction

The State of Andhra Pradesh consists of three regional segments, Circars, Rayalaseema and Telangana. These three regions were integrated and Andhra Pradesh State was formed in 1956 on the basis of linguistic uniformity. However, the historical, economic and cultural composition of these regions represented diversities. The Coastal districts of Andhra region as a part of Madras Presidency, was directly exposed to British administration, English education and some degree of agricultural modernisation. The Telangana region has been ruled by Nizam, in the fashion of a feudal autocratic regime.

In the year 1953, separate Andhra state came into existence after bifurcating Madras Presidency. Similarly after the Police Action, Hyderabad State became part of Indian Union and was a part -- A State till the formation of Andhra Pradesh in 1956.

For the first time in the year 1951-52, State Assembly elections were held in the Hyderabad State. In this election, as many as eleven political parties participated. The total number of seats from the Telangana region were 101. Out of which the Congress Party secured 44 seats, the Communists 36 (who constituted themselves as Progressive Democratic Front) and Socialists 11, the remaining were shared by the Independents and other groups. However, the Congress Party was able to form the government as it secured sizable number of seats from the Karnataka and Marathwada regions which have merged into Andhra Pradesh. One salient feature of exceptional significance during this period was the strong base of the Communist Party in Telangana where it had a history of leading Telangana peasantry's armed struggle. The Communists have played a very important role in fighting against the Nizam and in demanding "Vishalandhra". This historical role of Communist Party accounts for their strong hold in Telangana in 1952.

In the year 1957, second general elections in the Telangana region were held, in which six political parties were in the fray, inclusive of national and regional parties. The Congress contested as a Congress United Front and the Communists as People's Democratic Front. Besides, there were regional parties viz., Praja

Party, Peasants and Workers Party. The electoral outcome came as a big shock to the Communists. Of the 105 seats, Congress United Front bagged 75 seats and the Communists (PDP) 20. This trend set the pace for Congress's influential base in Telangana. This also set a decline of the Communist Party in the region.

In the Telugu-speaking districts of Madras Presidency, the first general elections of 1952 were fought by as many as ten political parties, inclusive of national and regional parties. The national parties like Congress, Communist, Socialists and the regional parties like Kisan Mazdoor Praja Party, Krishikar Lok Party, had taken part in this election. This election also demonstrated that the Congress was without a popular base in the Telugu-speaking areas. The Communist Party appeared as a strong alternative to Congress.

After the formation of separate Andhra State in 1953, a mid-term poll became inevitable with the fall of Prakasam's ministry. Accordingly a mid-term poll to the Andhra assembly was held in 1955. This election was a fight between the Congress-led United Front (which included the regional parties like Krishikar Lok Party and Praja Party) and the Communist Party of India. The elections were very significant as both of them were determined to capture power. The Communist Party on the basis of its performance in the 1952 General Elections hoped to win a majority of seats and form the first communist state government in India, but the results of the elections proved otherwise. Out of a total 196 seats in the Assembly, the Congress-led United Front scored a landslide victory routing the Communists. The Congress on its own secured 119 seats, the Krishikar Lok Party 22 and Praja Party 5 seats. The Communist Party could get only 15 seats.

This election revealed a substantial erosion of the base of the Communist Party. One important reason for this was the formation of separate Andhra State which satisfied the linguistic aspirations of the people, a theme harped upon by the Communists-in the earlier elections of 1952.

After the formation of Andhra Pradesh, the Congress Party not only consolidated its base but emerged as an unchallenged force. In all the elections of 1947, 1962, 1972, and 1978, Congress Party established uni-party dominance, as evident from table I.

TABLE I

Electoral Performance of the Congress Party

Year	Total Number of seats	Seats won	Percentage of Popular Vote
1957	300	213	43/36%
1962	300	177	47.25%
1967	287	165	45.32%
1972	287	219	52.29%
1978	294	175 (Congress-I)	39.26%

Though all other opposition parties were in the election fray, Congress secured majority of seats in the Assembly. After the first split in 1969, Congress (New) emerged as the strongest party as was evidenced by 1972 Assembly poll in which two-thirds majority was secured by it. Similarly the second split of 1978 did not make any impact on the solid base of the Congress-I.

An overall view of the electoral trends of Assembly election of Andhra Pradesh till 1978 shows:--

- (1) except for a brief period (1952 to 1955) Congress Party has been emerging with a solid popular base;
- (2) From 1955 to 1978, unit-party dominance (Congress) continued.

- (3) The opposition parties-like at the national level-were divided and very weak;
- (4) The decline of Communist Parties after the formation of Andhra Pradesh
- (5) Fragmentation of opposition parties failed to provide an alternative to Congress;
- (6) The percentage of votes secured by the Congress has been ranging between 40 and 52.

After the formation of Andhra Pradesh in 1956, the dominant peasant castes have captured the leadership of the party. The earlier urban-based educated, Brahmins and forward class leadership declined and gave way for rural peasant caste groups. The introduction of Panchayat Raj institutions has further reinforced the base of these prominent peasant castes and buttressed their grip over the rural masses.

After the 1969 split in the Congress, Mrs. Gandhi relied on the strength of the Scheduled Castes, Tribes and Backward Classes as against the dominant caste group. The role of the intermediaries or Panchayat Raj functionaries also got eclipsed in influencing the electorate.

The fringe benefits of 20-Point Programme and extensive publicity given to the personality factor of Mrs. Gandhi had contributed to this kind of intermediaries and middle men. The 1978 elections had revealed the trend of social polarization of the rich and poor. Congress party was over whelmingly supported by the B.C's, S.C's and S.T's, and weaker sections. The Janata party in the State was identified by the poor as party of dominant castes, landlords and vested interests. This was the perception of the poor in the 1978 Assembly elections of the State.

Thus the electoral trend during 1970s and 1980s in Andhra Pradesh, reflects the "Politics of populism." The fringe benefits such as house sites (SFDA) bank loans, distribution of lands (though more inform than in substance) among the weaker sections have influenced the electoral decisions in favour of the Congress-I of Mrs. Gandhi. It was not ideological issues but the politics of populism, which have become the determinants of electoral behaviour in the State.

31.2 The Phenomenon of Telugu Desam Party

Andhra Pradesh, a citadel and unshakable fortress of Congress Party, has shown a potential and serious threat to the Congress in the form of Telugu Desam Party. Known popularly as "Uni-party Dominant" State, Andhra Pradesh has witnessed the volcanic birth of a regional party, the Telugu Desam on 29th March, 1982. The founder-President N.T. Rama Rao is the exclusive and exceptional force behind the formation of this regional party. Mr. N.T. Rama Rao has been acting in Telugu films for 34 years and is popular among three generations of film-goers. He was, till he joined politics the highest paid film star in Andhra Pradesh. While speaking on the formation of his party he said, "public life was taken one year ago, when representatives of his 900 fan clubs, invited him to do so to serve the people to whom I owe so much". Further, he emphatically stated many a time, 'I did not come here for power. I did not come here for money. I did not come here for prestige and status. I enjoyed all this and more. I come here as a Sanyasi to follow you. I have earned money. I have earned status. And all because you gave it to me. I want to do something in return and serve you. Vote for the TDP Candidate. I hope he will not disappoint you, but if he does so, we will throw him out with all dishonour'. This was the tenor and texture of his public speeches appealing to the conscience and sentiments.

The events preceding the establishment of Telugu Desam Party have provided a fertile ground for levelling scathing criticism against the Congress party. After the 1978 elections, three Chief Ministers have been changed by the Congress High Command. The party President of the Congress-I in the State was changed five times in 30 months. A series of scandals, Landgrabbing cases, and charges of corruption were associated with the Government. Besides, a strong dissident activity, a common phenomenon with all the Congress Ministries, was also contributing to the deterioration of the political climate. N.T. Rama Rao has fully exploited the situation to his advantage. The issues he raised for appealing to the masses included (a) the cultural heritage of the Telugu people was destroyed by the Congress party (b) Increase of

unemployment, poverty, political dishonesty corruption in public life, lack of industrial development; (c) failure to protect the interests of the weaker sections and minorities; (d) imposition of Chief Ministers from Delhi and taking the people of Andhra Pradesh for granted; (e) lack of security for women; (f) starvation and high prices in the region which is called "Annapurna" and (g) reducing the status of Andhra Pradesh to slavery by the Delhi bosses etc.

Among the promises made to the people, the TDP highlighted: (1) introduction of rice at Rs. 2-00 per Kg; (2) free mid-day meal programme; (3) Removal of capitation fee in the educational Institutions; (4) rejuvenation of Telugu culture and restoration of the self-respect of the six crore Telugu people; (5) providing an honest and clean administration; (6) protection of the interests of the minorities; (7) Security to women and property rights; (8) removal of unemployment and provision of special schemes for unemployed youth; (9) Free education to all and employment to all; (10) development of weaker sections and depressed classes; (11) removal of blackmarketing and smuggling; (12) restoring real democracy; and (13) control of the price of essential commodities and efficient public distribution system.

31.3 Electoral Strategy

No Assembly election in Andhra Pradesh assumed greater significance than that of 1983. The actual electoral battle centred round two parties Congress-I and TDP. Mrs. Gandhi visited more than 200 Constituencies personally. Besides, the members of Union Cabinet, party functionaries, MLA's from Uttar Pradesh and other States extensively campaigned for the Congress Party. The Telugu Desam Party, on the contrary depended solely on the Chairman N.T.Rama Rao who visited and addressed largest number of Constituencies in an unprecedented fashion. The village youth voluntarily involved themselves with great devotion and commitment. The resources and organizational infrastructure of the Telugu Desam Party was markedly inferior to that of Congress-I. However, the impact of TDP proved to be very substantial and striking.

The electoral outcome of 1983 Assembly poll sent shockwaves in the Congress Party. The TDP captured two-thirds majority.

Electoral Performance - 1983, A.P. Assembly Elections

Total seats	=	294
Countermanded	=	1
Seats declared	=	293
Telugu Desam including Sanjay Vichar Manch	=	202
Congress (I)	=	60
Communist Party of India (M)	=	5
Majlis	=	5
Communist Party of India (CPI)	=	4
Bharatiya Janata Party of India (CPI)	=	3
Janata Party	=	1
Congress-J	=	1
Independents	=	12

The Congress-I was defeated in all the 13 constituencies of Hyderabad. In the whole of Coastal Andhra, out of 134 constituencies the Congress-I barely managed to win in 9 constituencies. In the Rayalaseema area, it could carry only 8 of the 53 seats. The rest of the seats came from Telangana. The Telangana region proved relatively better than the two regions for the Congress.

Commenting on the elections, the London Times observed, 'The people voted against Mrs. Gandhi's determination to install her own creatures as Chief Ministers'. The Guardian noted that 'the electorate had served their Prime Minister with due warning that dynastic politics, an arrogant and centralist desire to reward friends and punish enemies will not hold good'. A member of the Congress-I Parliamentary Board

observed that "the party in Andhra Pradesh was put to its grave by four undertakers : Chenna Reddy, T. Anjaiah, the Andhra Pradesh press led by Ecenadu and the screen image of Rama Rao".

An assessment of the rise of Telugu Desam Party throws up some interesting inferences. Firstly, the trend of uni-party domination, lasting for over thirty years has come to an end with the rise of a regional party. In a similar fashion DMK and Anna DMK have penetrated in Tamilnadu politics. Secondly, the prospects of national political parties to play important role in Andhra Pradesh seem to be bleak. The currents of regional identity have come to dominate the national political loyalties. Thirdly, party system in general has been crippled in the State. Fourthly, the process of social polarization; poor and rich, which has been set right from 1970 and 1980 has been blurred with the rise of Telugu Desam Party. However, the Scheduled Castes and Scheduled Tribes continued to be with Mrs. Gandhi. But there seems to be a division among the backward classes, which have gone out of the Congress fold. This, accordingly, accounts for the rout of the Congress. The Forward Classes, and a section of the Backward Classes and Women voters have gone in favour of Telugu Desam Party. The rural youth, unemployed and relatively free, have become the substantial centre of support for the regional party. As witnessed earlier, the role of intermediaries, opinion leaders and middle men, totally disappeared in influencing the decisions of the electorate. The role of the Charisma of N.T. Rama Rao counter - weighed Mrs. Gandhi's image. The added advantage of N.T. Rama Rao is his medium fluent dialogue - styled Telugu language which Mrs. Gandhi lacked. In terms of party and organizational structure, there seems hardly any difference between Congress-I and TDP. For both of them are individual - based parties rather than cadre-based organizations. Minus, the two individuals, the existence of the party becomes precarious. Women constituted, a critical variable in the electorate of 1983 in Andhra Pradesh. It is believed that women have overwhelmingly voted for TDP because of the film glamour and image of N.T. Rama Rao. In addition, the objective conditions, poverty, unemployment, high Prices and frustration have also contributed for a change. However, it has to be seen whether the change brought about would cope with the magnitude of the task. Lastly it was also conceived that the unitarian style of Congress functioning has produced its anti-thesis and negation. Telugu Desam regional party is said to fill in the gap created by the politics of centralization over a period of decade.

31.4 Split in the Telugu Desam Party

The surprise with which Telugu Desam Party captured power in Andhra Pradesh in 1983 January Assembly elections generated the same surprise when it experienced a vertical split on August 16, 1984. The split came as a bolt from the sky bringing to surface the simmering discontent and tension building within the party. On August 16, 1984 the government led by N.T. Rama Rao was dismissed by the Governor, Ram Lal, on the plea that he was satisfied that Sri Rama Rao had lost majority support of the legislators in the Assembly.

On the preceding day, N. Bhaskara Rao, the erstwhile Finance Minister and Number Two in the NTR's Cabinet undertook a signature campaign against N.T. Rama Rao. Arriving in Hyderabad from USA, NTR came to know about the campaign launched by N. Bhaskara Rao against him. Consequently, he recommended dismissal of Bhaskara Rao to the Governor which sparked off quick political development in the State. Three other Cabinet Ministers - T. Jeevan Reddy, S. Satyanarayana and Ramamuni Reddy resigned from Rama Rao's Ministry expressing support to N. Bhaskara Rao. It is reported that N. Bhaskara Rao met the Governor with a list of 90 signatures expressing lack of confidence in the leadership of N.T. Rama Rao. He also informed the Governor that the Congress-I also backed him with 54 MLA's.

Following this, N. Bhaskara Rao was appointed as the Chief Minister and N.T. Rama Rao was asked to resign. When N.T. Rama Rao refused to resign on the ground that he had absolute majority, which he was willing to prove in the Assembly in Two days time, Governor Ram Lal dismissed him. This created an unprecedented sensation in Andhra Pradesh and the rest of India. The Governor's action came under severe attack. It was pointed out that the Governor should have verified the support in the Assembly rather than in the Raj Bhavan. After being appointed as the Chief Minister, Bhaskara Rao was asked to prove his vote of confidence in the Assembly within one month. However, when the one month period given for proving the majority was coming to an end, the new Governor S.D. Sharma reinstated N.T. Rama Rao as Chief Minister. All the opposition parties except Majlis Ittehad -UI-Muslimin supported N.T. Rama Rao: vote of confidence in the Assembly was proved.

What happened in Andhra Pradesh was a case of vertical split in the ruling Telugu Desam. Indeed N. Bhaskara Rao had the support of as many as 90 members as claimed by him. It was not a case of defection but a vertical break-up of a monolith party built around the personality of a single leader who had pioneered its spectacular victory in the last Assembly election.

Following his re-installation as the Chief Minister, N.T. Rama Rao advised the Governor to dissolve the Assembly and hold fresh elections. In the State Assembly elections of 1985, the TDP and other opposition parties comprising the Janata, BJP, CPI and CPM entered into electoral alliance. It was a non-congress alliance against the congress which yielded good results in favour of the TDP and her allies. The Democratic Telugu Desam led by N. Bhaskar Rao was completely routed out including Bhaskar Rao and rejected by the people of Andhra Pradesh. The congress contesting all alone against the TDP and her allies became the number two party by capturing above 50 seats. Even in the Lok Sabha elections of 1984, the TDP and her allies did extremely well by securing a large number of seats in the Lok Sabha from Andhra Pradesh. The TDP president, N.T. Rama Rao, having secured a substantial majority formed the government for the third time.

Telugu Desam Party since then till today remained in tact despite occasional factional activities. Factionalism for the first time came out openly when the Chief Minister N.T. Rama Rao reconstituted the cabinet discarding all the earlier 31 ministers. This has given rise to grumblings in the party led by ex-ministers K.E. Krishna Murthy, Jana Reddy, Vasantha Nageshwar Rao, Mudragada Padmanabham who left the party and formed another regional party known as Telugu Nadu. However, their leaving the party did not make much impact on the party as expected by them. Many people did not join Telugu Nadu. Therefore, compared to congress party or to subject matter any other regional parties, TDP presents the picture of a compact well - united and organised party under the charismatic leadership of N.T. Rama Rao, who is playing a significant role in national politics also.

Right from the inception, Telugu Desam has been showing lot of enthusiasm and interest in National Political scene. At one time, the TDP president contemplated to start a national party known as Bharat Desam. However, he changed his mind and instead of starting his own national party began to take such steps as to bring all opposition parties together in order to organise them as a viable alternative to congress party. Largely, through his efforts the national front came into existence. And the TDP President N.T. Rama Rao is also the Chairman of the National Front in which Janata Dal, TDP, AGP, DMK, the Congress led by Unnikrishnan are partners. This National Front which came into existence largely through the efforts of the TDP President has many stalwarts like V.P. Singh, Ramakrishna Hegde, Chandrasekhar and Devi Lal. This hopes to replace congress at the centre in the ensuing Lok Sabha elections.

31.5 Summing Up

Like the National Parties the regional parties are also not free from splits. The Dravida Munnetra Kazhagam (DMK) in Tamilnadu too underwent a split and resulted in the formation of Anna All India Dravida Munnetra Kazhagam (AIADMK). In Jammu and Kashmir, the National Conference suffered a split. This process of split and disintegration also manifested in the case of Telugu Desam Party. One most significant aspect of the political process, as evident from the split in the TDP in Andhra Pradesh is the manipulative politics, disregarding the verdict of the people which is a negation of democratic traditions.

31.6 Suggested Readings

V. Hanumantha Rao

Party Politics in Andhra Pradesh.

31.7 Model Questions

I Answer the following questions in about 30 lines.

1. Examine the significance of the Andhra Assembly elections of 1955.
2. Account for the dominance of Congress Party in the State Politics after the formation of Andhra Pradesh.
3. Describe the reasons for the success of Telugu Desam Party in the 1983 Assembly Election.

II Answer the following questions in about 15 lines.

1. Reasons for the decline of Communist Party of India (CPI) in Andhra Pradesh.
2. The 1978 election.
3. The split in the Telugu Desam Party.

Dr V. Ravindra Shastri.

ANDHRA PRADESH OPEN UNIVERSITY
UNDERGRADUATE PROGRAMME
SYLLABUS FOR SECOND YEAR B.A
POLITICAL SCIENCE

COURSE-II : INDIAN GOVERNMENT AND POLITICS

Block I : Basic Features

- Unit 1 : Historical Background, Colonial Rule : Beginnings of Nationalism.
- Unit 2 : Indian National Movement : Different Phases : Triumph of Nationalism.
- Unit 3 : Constituent Assembly and its work
- Unit 4 : The Indian Constitution and its Features

Block II : Main Institutions

- Unit 5 : Parliament
- Unit 6 : Parliamentary Procedures
- Unit 7 : Changing Role of Indian Parliament
- Unit 8 : The President - Election, Powers and Functions
- Unit 9 : The President and Relation between the President and the Cabinet
- Unit 10 : Prime Minister and the Cabinet
- Unit 11 : Patterns of State Governments - Legislatures
- Unit 12 : Patterns of State Governments - Executive and Judiciary
- Unit 13 : Union-State Relations
- Unit 14 : Trends in Centre - State Relations

Block III : Judiciary

- Unit 15 : Organisation of the Judiciary
- Unit 16 : Judicial Review
- Unit 17 : Constitutional Amendments

Block IV : Fundamental Rights

- Unit 18 : Fundamental Rights
- Unit 19 : Meaning and Scope of Fundamental Rights
- Unit 20 : Civil Liberties
- Unit 21 : Directive Principles : The Changing Perspective

Block V : Politics in India

- Unit 22 : Problems of Party Politics in India
- Unit 23 : Political Parties - National
- Unit 24 : Political Parties - Regional
- Unit 25 : Influence of Socio-Economic Factors on Indian Politics
- Unit 26 : Women in Indian Politics - Problems and Prospects
- Unit 27 : Protest Movements

Block VI : Issues
Unit 28 : National Integration - Problems and Prospects

Block VII : A.P.State Politics

Unit 29 : Evolution of the State of Andhra Pradesh - Freedom struggle in Telangana and Andhra and Origins of the State
Unit 30 : Political Developments in Andhra Pradesh
Unit 31 : Electoral Trends in the State - The Phenomenon of Telugu Desam Party.

BRAOU

ANDHRA PRADESH OPEN UNIVERSITY
UNDERGRADUATE COURSE II YEAR
SUBJECT : POLITICAL SCIENCE
COURSE II : INDIAN GOVERNMENT AND POLITICS
ASSIGNMENT NO. 1

N.B

1. Do not copy the answer directly from any of the books.
 2. As far as possible try to answer the questions independently in your own words.
 3. If it is necessary to quote from any source given the correct reference.
 4. Use your own foolscap paper for writing the assignments.
 5. Leave sufficient margins for the comments of the evaluator.
 6. Completion of this assignment normally should not take more than two hours time
-

I. Answer the following questions in about 30 lines each.

1. Trace the birth of Indian National Congress.
2. Evaluate the position of the Prime Minister in the Indian Political System?
3. What is the role of the Governor in the Indian Constitution?

II. Answer the following questions in about 15 lines each.

1. Is the President of India really a rubber stamp ?
2. What are the objectives of the Indian Constitution?
3. Role of the Planning Commission.

ANDHRA PRADESH OPEN UNIVERSITY
UNDERGRADUATE COURSE II YEAR
SUBJECT : POLITICAL SCIENCE
COURSE II : INDIAN GOVERNMENT AND POLITICS
ASSIGNMENT NO. 2

N.B

1. Do not copy the answer directly from any of the books.
 2. As far as possible try to answer the questions independently in your own words.
 3. If it is necessary to quote from any source give the correct reference.
 4. Use your own foolscap paper for writing the assignments.
 5. Leave sufficient margins for the comments of the evaluator.
 6. Completion of this assignment normally should not take more than two hours time
-

I. Answer the following questions in about 30 lines each.

1. Critically examine the nature and importance of the Directive Principles.
2. Explain about the fundamental rights as enshrined in the Constitution of India.
3. Examine the implication of the 42nd amendment.

II. Answer the following questions in about 15 lines each.

1. Trace the origin of the civil liberties in India.
2. Write briefly on the Right to property.
3. Comment about women's participation in India Politics.

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UNDERGRADUATE COURSE II YEAR
SUBJECT : POLITICAL SCIENCE
COURSE II : INDIAN GOVERNMENT AND POLITICS
ASSIGNMENT NO. 3

N.B

1. Do not copy the answer directly from any of the books.
 2. As far as possible try to answer the questions independently in your own words.
 3. If it is necessary to quote from any source give the correct reference.
 4. Use your own foolscap paper for writing the assignments.
 5. Leave sufficient margins for the comments of the evaluator.
 6. Completion of this assignment normally should not take more than two hours time
-

I. Answer the following questions in about 30 lines each.

1. Describe the powers of the Supreme Court.
2. Examine the importance of fundamental rights in India.
3. Comment on the basic structure of the constitution.

II. Answer the following questions in about 15 lines each.

1. Describe the procedures for amending the Indian Constitution.
2. Maintenance of Internal Security Act.
3. Reasonable Restrictions.

ANDHRA PRADESH OPEN UNIVERSITY
FACULTY OF SOCIAL SCIENCE
SECOND YEAR (3 YEAR DEGREE COURSE) EXAMINATION
MODEL QUESTION PAPER
POLITICAL SCIENCE COURSE - I
INDIAN GOVERNMENT & POLITICS

Time : 3 hours

Max. Marks 100

- I Answer any four of the following eight questions in about 30 lines each.
1. Describe the composition, powers and functions of the parliament.
 2. Critically examine the emergency powers of the President of India.
 3. Discuss whether the President got any choice in the selection of the Prime Minister.
 4. Evaluate the position of the Prime Minister in the Indian political system.
 5. Examine the federal features in the constitution.
 6. Examine the centre - state relations during 1950 to 1967.
 7. Examine the implications of 42nd amendment of the constitution.
 8. Explain the social relevance of the Directive Principles of State Policy.
- II. Answer any five of the following in about 15 lines each.
1. Enumerate the fundamental rights of the constitution of India.
 2. Account for the success of the Regional Political Parties in India.
 3. What are the problems and prospects of National Integration.
 4. Discuss different protest movements in India.
 5. The provisions under 1935 Act.
 6. Enlighten on the role of the Governor in Indian Politics giving illustrations.
 7. Is the advice of the cabinet binding on the President.
 8. Salient features of the Indian Constitution.
 9. Discuss the role of Moderates in the Indian National Congress.
 10. Enlist the causes of 1857 war of Independence.

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