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Study Material

M.A.

POLITICAL SCIENCE

SEMESTER - I

COURSE CODE: POL - 103

INDIAN POLITICAL SYSTEM

Prof. Baljit Singh

Course Co-ordinator

HOD Department of Political Science

University of Jammu

Dr. Mamta Sharma

Teacher-in-Charge PG Political Science

DDE, University of Jammu

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POLITICAL SCIENCE

Course Editor

Dr. V. Nagendra Rao

Course Contributors

Zain Bhatt

Pankaj Kumar Sharma

Dr. V. Nagendra Rao

Dr. Mamta Sharma

Editing and Proof Reading

Dr. Mamta Sharma

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M. A. Political Science under Non-CBCS

Semester-I

Session December 2022, 2023 & 2024

Course Code : POL - 103

Title Indian Political System

Credits : 6 (Six)

Max. Marks : 100

Internal Assessment : 20 Time 3 Hours

Semester Exam : 80

Objectives of Course : This course aims to provide foundations in the philosophical and ideological bases of Indian Political System. It is designed to the structures, processes and relationship amongst various structures and symbiotic relationship between the structures and proceses. Major objective of course is to introduce the learners to the politics of representations and recognition. While focusing on the democratization and federalization of political structures, it empowers the learners to understand the process of structural differentiation inbuilt and evolved in the Indian Political System over the period of time.

Learning Outcomes : This course imparts skills to the learners to understand the working of Indian Political System. The learners will be enabled to understand that how the principles of separation of powers and checks and balances have been operating in the Indian context. It will help the learners to know that the understanding of the socio-economic and political context is equally important to grasp the working of political structures and processes as their functioning is shaped by it. The significance of the legitimacy of political structures and wherefrom they are driving it will be vital learning for the learners.

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Unit-1 Colonialism, Growth of Nationalism and Framing of Indian Constitution.

- 1.1 Nature and Impact of Colonialism : Economic, Social and Political.
- 1.2 Anti Colonial Movement : Ideology, Strategy and Main Phases of the Movement.
- 1.3 Constitution : Evolution, Ideological Bases and Characteristic features
- 1.4 Nature of State in India : Democratic, Developmental and Coercive Dimensions

Unit-II Structures of Governance

- 2.1 Federalism : Structure, Nature and Emerging Trends
- 2.2 Democratic Decentralization : 73rd and 74th Constitutional Amendments, Nature and Impact
- 2.3 Parliament : Changing Nature of Representation
- 2.4 Judicial System : Nature, Role in Social Transformation and Judicial Activism

Unit-III Political Processes

- 3.1 Electoral System : Election Commission of India and Electoral Reforms
- 3.2 Elections and Types of Representation in India
- 3.3 Party System, Changing Nature and Emerging Trends
- 3.4 Interest Groups : Corporate, Trade Union and Peasants

Unit-IV Politics of Representation and Recognition

- 4.1 Ethno-Nationalism : Nature, Forms and Contestation in Indian Politics
- 4.2 Caste : Changing Nature and Role in Indian Politics

- 4.3 Religion : Role and Emerging Debates in Indian Politics
- 4.4 Gender : Emerging Issues and Debates in Indian Politics

NOTE FOR PAPER SETTER

- The Question Paper shall be divided into two sections. The first section will carry eight short questions of which students will be required to attempt five questions. The upper words limit for the answer of each question will be 200 words. Each question carrying 4 marks.
- The Second section will comprise eight questions of which students will have to attempt four questions on the basis of ‘**WITHIN UNIT**’ choice. The upper words limit for the answer of each question will be 850 to 1000 words. Each question will carry 15 marks.

SUGGESTED READINGS :

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M.A. Political Science, Semester I

Course Title : **Indian Political System**

Unit – I : **Colonialism and Growth of Nationalism**

**1.1 NATURE AND IMPACT OF COLONIALISM :
ECONOMIC, SOCIAL AND POLITICAL**

- Zain Bhatt

STRUCTURE

1.1.0 Objectives

1.1.1 Introduction

1.1.2 Nature of Colonialism

1.1.3 Impact of British Colonialism

1.1.3.1 Other Economic Impacts

1.1.3.2 Social Impact

1.1.3.3 Political Impact

1.1.4 Summing Up

1.1.0 OBJECTIVES

After going through this lesson you will be able to:

- Understand the nature of colonialism

- Know the impact of colonialism on India
- Comprehend the socio-political and economic consequences of colonialism

1.1.1 INTRODUCTION

Colonialism is a policy which aims at creating, organizing and maintaining an empire. According to J.A. Hobson, “Colonialism, in its best-sense, is a natural overflow of nationality; its test is the power of colonists to transplant the civilization. They represent to the new natural and social environment in which they find themselves.”

The British conquest of India was different in character from all the previous conquest of the country. In the past the change of rulers implies merely a change of the dynasty that exercised political authority over the people, but it did not affect the social fabric, the productive organization, the property relation or the system of administration.

Under the British rule all this was altered, and a socio-economic revolution was started which culminated in the destruction of the old institution and in the emergence of new social classes and forces.

1.1.2 NATURE OF COLONIALISM

The British ruled over India for about three centuries. It is difficult to achieve a consensus on the nature and consequence of the British impact on India. In some respects the British impact was positive; in others negative.

Legally, they (British) gave India something close to a uniform code of justice, a revolutionary departure indeed from the previous patterns of regional and local ‘justice’ and communal differences. They also gave India a concept of liberty under law economically, they destroyed the base of existence of self-sufficient village-system in India, and they undoubtedly ‘milked’ India for British ends, but they introduced new forum of land tenure, they tied the country together economically as well as politically, they helped to create new economic classes and interests and

they developed systems of trade and finance which have prevailed to the present day.

Culturally, they brought India into contact with the west and helped India to rediscover its own rich past as well as the riches of other cultures.

Educationally, they made great progress in achieving the objective recommended by Lord Macaulay in his famous minute of 1835: “to form a class who may be interpreters between us and the million who we govern; a class of person, Indian in blood and colour, but English in taste, in opinions, in morals and in intellect.”

The western system of education brought a slow though radical transformation of the value structure and behaviour patterns of Indian intellectuals. The new system of civil and judicial administration made the English language and education a very valuable revenue for achieving political influence, economic power and social mobility.

It also exposed Indian elites to the constitutional liberalism and democratic socialism propounded by English Utilitarians and Fabian Socialists. The democratic ideals of liberty, equality and social justice gradually took root among the members of the intellectual establishment of the country.

Socially, the English created the new middle class of India. Generations after generations there came into being a wholly new class- English educated, tutored in liberal ideas, full of admiration for the west and prepared to serve as ‘clerks’ under foreign superiors.

1.1.3 IMPACT OF BRITISH COLONIALISM

In the initial phases of their conquest of India, the English plundered the country’s wealth and resources by:

- 1) Exaction from Indian rulers, Zamindars, merchants and the common people;
- 2) Oppression and exploitation of Indian artisans, indigo cultivators and merchants; and

3) Taking over the surplus revenue.

When British rule was securely established and more settled conditions came to prevail, the earlier ways of 'open and unashamed plunder' gave way to characteristic imperialist system of colonial exploitation.

Under this system the principal instruments of exploitation were:

- 1) unequal trade ;
- 2) profitable export of British capital and enterprise to India;
- 3) employment of British nationals in the colonial administration;
- 4) drain of Indian resources in the form of excess merchandise exports;
- 5) manipulation of exchange rates to the advantage of British and the disadvantage of India;
- 6) preferential tariffs to Britain, and
- 7) exploitation of Indian resources for purpose of conquests and wars.

The net result of the above-mentioned exploitations of the Indian economy resulted in the following impacts over the Indian economy:-

- a) The Plunder of Bengal helps the industrial revolution in England due the transfer of resources like the raw materials and corruption vis-à-vis capital. According to English historians of India like Edward Thompson and G.T. Garret "a gold lust unequalled since the hysteria that took hold of the Spaniards of Carter' and Pizarro's age filled the English mind. Bengal in particular was not to know peace again until she has been bled white."
- b) The destruction of India's industries and the decay of the agriculture. With the development of industrial techniques in England, a new class of industrial capitalists rose there, demanding a change in the policy. According to new

policy, the British market was to be closed to Indian products and the Indian market opened to the British manufactures. The net result was the destruction of India's industries and the resultant more burden on the Indian agriculture to accommodate new gigantic class of workers consisting of former artisans. The over-all affect had been the further decay of the Indian agriculture.

- c) Due to the establishment of the colonial rule India becomes for the first a political and economical appendage of another country.

The British colonial rule established the political and economic system whose centre of gravity lay outside her soil.

Economically speaking, the opening of the Indian market to the British goods with no permission to export the Indian goods to the British market resulted into the destruction of the local self-sufficient economy based in the rural India.

The instruments like high export duty and import duty to perpetuate the domination of the colonial power over the local economy of the country.

Politically speaking, the whole India was brought under a single unified authority led by Governor General-in-Council up to 1857 and the Viceroy after the establishment of the Govt. of India Act, 1858. The Army was organized in such a way that the units were headed by a British with millions of Indian Sepoys under his command. This was reorganized repeatedly, especially after the Mutiny of 1857.

1.1.3.1 Other Economic Impacts

- a) The drain of wealth in the forms of policy of purchasing Indian goods out of the revenue collected from Bengal and exporting them to England.
- b) The drain of wealth resulted into India's loss and England's gain as this wealth resulted in the Industrial development of England.

- c) Commercialization of Agriculture due to emphasis on the cultivation of commercial crops like cotton, jute, oil seeds, sugar cane, tobacco, condiments and spices.
- d) Emergence of a unified national market on the ruins of fragmented and isolated local market of pre-British era and this resulted into the erosion of self-sufficient rural economy existing in various parts of pre-British India.
- e) Transformation of land and labour into commodities: Prior to British rule, land was not a private property which could be freely sold or purchased. However, the position changed with the land settlements affected by the British on the patterns of contemporary England. The system like Zamindari settlements vested ownership on land in the Zamindars, the Mahalwari settlement, in groups of owners or the village community and the Ryotwari settlement, in the individual ryot (cultivator).
- f) Colonial Economy: The colonial economy character expressed firstly in an unequal pattern of trade with British and other industrialized countries and secondly the country had become a vast source of raw materials and a market for manufacture.
- g) Backward Economy: At the end of the British rule, India had a very backward, predominately agrarian economy with 70 percent of the labour force and generated 59 percent of the national income.
- h) Stagnant Economy: Under British rule, the economy was unable to move except at a snail's pace and the average annual growth rate of income per capita was no higher than 0.5 percent.

1.1.3.2 Social Impact

The following were the social and religious consequences of the British rule in India.

- a) **The emergence of the Indian Middle Class:** The lands laws introduced

by the British were responsible for the disruption of the old agrarian structure and the creation of a new social order. The new rent receiving land lords, money lenders and businessmen came to form the nucleus of the new middle class. They together with the traditional castes whose occupation was study and teaching or government services, were the first to avail themselves of the benefits of English education.

b) Disintegration of village communities: The land revenue systems established by the British in India and the assumption of all Judicial and administrative functions by government officials destroyed the powers of the old intermediaries – zamindars and farmers and of the village panchayats. This led to the breakup of that ancient social framework within which the agricultural population had lived for centuries.

c) Destruction of Traditional Educational System: The educational system in ancient India was highly beneficial and it attracted the praise of even foreign scholars like Hieun Tsang and Al Beruni. In those days in every village, there were Sanskrit Schools where education was imparted free of charge. The British uprooted the old system and instead introduced a new system of education on English lines. Very few schools and colleges were opened by the government and mostly the educational institutions were run by the Christian missionaries. The new system of education was highly expensive, therefore, few people benefited by it, consequently mass illiteracy began to prevail in India.

d) Propagation of Christianity: The East India company after perfecting its hold on the Indian territories thought of converting the whole of India into Christianity. According to Revered Kennedy, “our chief work is the propagation of Christianity in the land, until Hindustan from Cape Comorin to the Himalayas embraces the religion of Christ and until it condemns the Hindu and Muslim religions, our efforts must continue persistently.”

- e) **Changes in Hindu Inheritance Law Favouring Christianity:** Lord William Bentinck changed the Hindu Inheritance Law in 1832 and allowed the converts to Christianity to inherit land in the property of their father. The British also allowed legally to mortgage or divide or sell the landed property. All this caused grave discontentment against the British rule.
- f) **Encouragement of communalism:** The colonialists in order to prolong their rule sowed the seeds of dissension between the Hindus and Muslim and they encouraged communalism. Take the case of Morley-Minto reforms (1909). The biggest defect in the Morley-Minto reforms (1909) was the creation of separate or communal system of election providing for separation and reservation of seats in the council's for special interests like Muslims, Chambers of Commerce, zamindars etc.
- g) **Social Reforms :-** The fact that modernization was introduced to India by a small English educated middle class, is the genesis of the British Raj. First appeared the great urge to reform Hindu society and its more objectionable practices.

In this, the enlightened administration sent out by the British found common ground with the leaders of the Indian renaissance. Indeed the revival of the Hindu spirit and the regeneration of ancient India glory were attempted by purifying Hindus and denuding it of the distortions that had grown during its period of darkness.

The first steps were taken as state measure during the eventful regime of Lord William Bentinck, the Governor General of India from 1828 to 1835 and under sustained pressure from Indian liberals like Ram Mohan Roy Chief among there were the abolition of Suttee (Sati), thuggee and female infanticide.

1.1.3.3 Political Impact

The impact of the British was indeed revolutionary. It was not deep because it was alien, but it was big, powerful and enduring.

The chief legacies of the British period are mentioned below:

- a) **Establishment of Central Authority** :- The British for the first time brought the whole sub-continent under one imperial rule and kept it under that rule on a continuous basis without fear of either disruption from within or aggression from without. Although more than a third of the territory was left outside Britain's direct administrative control, in the hands of native princes, its paramountcy was recognized even there and there was no question about its imperial authority.
- b) **Law and Order** : From the point of view of the Indian population, the most beneficial affect of British dominance over the country was the provision of law and order. We know how the Muslim conquest and the internecine struggle that followed had disturbed the peace of the sub-continent and had led to insecurity in country-side.

The British rule that followed such a long period of turmoil security, enforced a rule of law, and heralded a long period of peace and stability.

- c) **New notions of Administrations and Justice** : The British not only brought the whole sub-continent under a single authority, they also provided a unified administration. Building on the district pattern of the Moguls, a hierarchical structure of administration was created from the centre downwards, with the provinces and the districts acting as subordinate agencies.

Above all, the British created modern bureaucracy in India, a unified service based on merit and open competition. These principles were tried out in India even before they were introduced in Great Britain. The result was the

ICS (India Civil Service) at first manned wholly by British officers, to which later on Indian were added in increasing numbers.

The men of ICS were not only district officers, they also were district magistrates who administered justice with the passage of time, a new system of courts were created based on Anglo-Saxon principles and procedure of jurisprudence and with their ancestry in the British common law and precedents.

- d) **Colonial and Corrupt Administrative System** : For the first time European foreign rule had been established in India. It led to the loss of the independence of the entire country and enslavement of the entire country. This caused utmost bitterness, not only in the minds of the Rajas and Maharajas whose territories had been seized by superior military force and by treachery, but also by the common people, who deeply missed the loss of political freedom.

The British administration was characterized by purely bureaucratic character and lacked personal touch altogether. The British officers weren't accessible to the people because they possessed superiority complex. The policy of the East India company was not to give high posts to the Indians.

It is also noteworthy that the administration of the East India company was corrupt. In Nehru's words: "The corruption, venality, nepotism, violence and greed of money of these early generations of British rule in India is something which possesses comprehension". During 25 years (1755-88) wealth worth at least Rupees 600 million left Bengal to reach Britain.

1.1.4 SUMMING UP

The British ruled over India for about three centuries. It is difficult to achieve a consensus on the nature and consequence of the British impact on India. In some respects the British impact was positive; in others negative.

While the British were consolidating their power in India, they were also, unwillingly, laying the bases for Indian independence. Their contributions were manifold; political, administrative, legal, economic, cultural, educational, social and psychological, politically, they assumed effective power in India at a very low period in Indian History. They gave India a greater degree of national unity and solidarity and a better form of government that it had ever enjoyed administratively, the British developed a pattern of rule which is still followed in its basic outlines by free India. This administration extended through British India even to the village level and indirectly it affected the princely states as well. By associating Indian in increasing numbers in the administrative services, the British helped to train generations of capable administrators.

M.A. Political Science, Semester I

Course Title : Indian Political System

Unit – I : Colonialism and Growth of Nationalism

**1.2 ANTI COLONIAL MOVEMENT: IDEOLOGY,
STRATEGY, SOCIAL BASE AND MAIN PHASES
OF THE MOVEMENT**

- Zain Bhatt

STRUCTURE

1.2.0 Objectives

1.2.1 Introduction

1.2.2 The First War of Independence

1.2.3 Emergence of Indian National Congress

1.2.3.1 Objectives of Indian National Congress

1.2.4 The Role of Moderates

1.2.5 Rise of Extremists

1.2.6 Gandhi and Mass Nationalism

1.2.7 Quit India Movement

1.2.8 Summing Up

1.2.0 OBJECTIVES

After going through this lesson you will be able to know:

- The reasons and impact of the first war of independence or 1857 Revolt
- The emergence of Indian National Congress
- The role of moderates in India's freedom movement
- The influence of Gandhi in the emergence of mass nationalism
- The reasons and impact of Quit India movement on India's independence

1.2.1 INTRODUCTION

The Indian Independence Movement incorporated the efforts by Indians to liberate the region from British rule and form the nation-state of India. It involved a wide spectrum of Indian political organizations, philosophies, and rebellions between 1857 and India's emergence as a unified nation-state on August 15, 1947. The Indian independence movement incorporated the efforts by Indians to liberate the region from British rule and form the nation-state of India.

1.2.2. THE FIRST WAR OF INDEPENDENCE 1857

The first phase of Anti-colonial movement started with the revolt of 1857. According to Indians, this was the first war of independence against the colonial rules and according to British historians, it was a sepoy mutiny. Whatever be the nature, the revolt of 1857 can be called the first Anti-colonial Movement.

As for as the ideology of the revolt is concerned, the revolt was the result of number of factors like political factors in the forms of greedy policy aggrandizement, absentee sovereignty character of British rule, British interference in socio-religious affairs of Indian public.

Then economic factors in the form of heavy taxation under new revenue settlement, summary evictions, discriminatory tariff policy against Indian product, and destruction of traditional handicrafts industry and absence of concomitant industrialization on modern lines that hit peasant, artisans and small zamindars.

And lastly the militancy factors in the forms of discontent among sepoys for economic, psychological and religious reasons, coupled with a long history of revolts.

The revolt was mainly concentrated in the Northern and North-Eastern parts of the country with main centers of resistance like Delhi led by General Bakht Khan, Kanpur led by Nana Sahib, Lucknow led by Begum Hazrat Mahal, Bareilly led by Khan Bahadur, Faizabad led by Maulvi Ahmedullah and Jhansi led by Rani Laxmi Bai.

However, the Revolt was brutally crushed by British due to the following inherent factors like:

- i) Limited territorial and social base,
- ii) Crucial support of certain sections of Indian public for British,
- iii) Lack of resources as compared to those of the British,
- iv) Lack of coordination and a central leadership, &
- v) Lack of a coherent ideology and a political perspective.

It was due to the above-mentioned factors that we can conclude that it was not quite the First war of independence but sowed the seeds of nationalism and quest for freedom from alien rule.

However, the first Anti-colonial movement brought a sea-change as the crown took over and the company rule was abolished after the Queen's Proclamation, the army was organised with more British presence and with this social hatred against British colonial rule deepened.

1.2.3 EMERGENCE OF INDIAN NATIONAL CONGRESS

There are several views in the origin of the National Congress. Some opine that the idea originated in the Delhi Durbar of 1877. Others say that the idea was conceived in a private meeting of some members of the Theosophical Convention held at Madras in December 1884. But there is no historical evidence in support of these views.

It was Lord Dufferin, the Viceroy of India, who had already hinted at the need of an all India organization of Indian intellectuals through which the demand and grievances of the Indians could be better represented to the Government. Mr.A.O. Hume, a retired member of Indian Civil Service and a great champion of Indian cause, took the initiative in the formation of such an organization.

In an opened letter addressed to the young graduates of Calcutta University on the 1st March 1883, Hume appealed to the Indian intellectual to form an association for the moral, social and political regeneration of India. In response to his appeal, the Indian National union was formed towards the close of 1884 with its branches in big cities of India.

Though an English man Hume was terribly moved by the abject poverty and the distress of the people of India under the British rule. He cautioned the British authorities in India against the growing discontent might lead to a violent revolution to drive out the British from Indian soil.

He therefore, wanted to save the British Empire in India from an impending danger by forming an organization of educated and consciousness Indians to ventilate the grievance of the Indian mass. He met Lord Dufferin, the Viceroy and explained to him the need for a political organization of some Indian intellectuals. The Viceroy immediately agreed to the proposal of Mr. Hume, who gave a clarion call to few graduates of Calcutta University to form such an organization. It was well responded and an all-India political organization came into being in the name of Indian National union.

The first session of the Indian National Union was held on 28th, 29th, and 30th December 1885, during the Christmas holidays at Bombay within the Campus of the Gokuladas Tejpal Sanskrit College. It was presided over by Mr. W.C. Banarjee. A.O.Hume, K.T.Telang, Subramanya Aiyar and Dadabhai Naroji were among the distinguished speakers of the session. Dadabhai, the grand old man of India, suggested that the Indian National Union be named as Indian National Congress. It was unanimously accepted and the Indian National Congress was, thus, born in December 1885.

1.2.3.1 Objectives of the Indian National Congress

The objects of the Congress, as stated by its president W.C. Banarjee were:

- (i) to promote personal intimacy of and friendship amongst those people from every part of India who were sincerely devoted to the welfare of India.
- (ii) To protect and enhance the feeling of unity among all Indians without distinction of Caste, religion and province ETC.
- (iii) to collect all those opinions concerning society which were properly deliberated on by the educated Indians and
- (iv) to fix up those aims and means which were to be adopted by Indian politicians for the welfare of India.

Besides it passed certain resolutions which were to be placed before the Government in form of petitions. The resolutions requested the Government to abolish the India Council, to hold the Indian Civil Service Examination in India as well to increase the age limit for appearing in the Indian Civil Service Examination, to have elected members in legislative assemblies and to establish legislative assemblies in North-West Frontier Province, Oudh and Punjab. Thus, the Congress started functioning as an all-India organization from 1885 with very modest objectives.

It will not be correct to trace the origin of the Indian National Congress to the efforts of a single individual like A.O. Hume. The various political organizations, started earlier, in different parts of India had already prepared the ground.

The foundation of the Indian National Congress in 1885 was only a visible expression of that national awakening. Again it has been said that Hume's main purpose in encouraging the foundation of the Congress was to provide a "Safety Valve" or a safe outlet to the growing discontent among the educated Indians. Lord Dufferin, the then Viceroy of India, welcomed Hume's plan for establishing a political organization through which the Government would be in a position to ascertain the real wishes of the people and , thus, save the administration from any possible political revolt in the country.

The Indians wanted to establish the Congress to fight and India's political and economic advancement. They co-operated with Hume, because they did not want to arouse official hostility to their early political efforts. "If Hume wanted to use Congress as a 'Safety Valve', the early congress leaders hoped to use him as a lightning conductor."

1.2.4 THE ROLE OF MODERATES

The second Anti-colonial Movement started on the modern lines due to the taking over of the leadership by the western-educated Indian leadership like Dadabhai Naoroji, Badruddin Tyabji, Gopal Krishna Gokhale etc. The movement was the result of the understanding of contradictions in Indian and British colonial interests.

Other factors which brought the Indian masses to organized the line selves on the modern lines to throw away the foreign rule were :

- i) Political , administration and economic unification of the country,
- ii) The propagation of western liberal thought and literature,
- iii) Study and revivalism of India's glorious past through historical

research,

- iv) Rise of middle-class intelligentsia,
- v) Impact of contemporary movements world- wide, &
- vi) Reactionary polices and social arguments of colonial ruler.

As already mentioned, the second phase of Anti-colonial movement was organized on modern lines with number of socio-political organisations formed for the purpose of organizing people for restructuring the Indian society on modern lines as well as preparing the masses for independence of the country from foreign rule.

Some of the prominent organization were Landholders Society (1836), Bengal British India Society (1842), British Indian Association (1851), East Indian Association (1851), Indian League (1875), Indian Association of Calcutta (1876), Poona Sarvajanaik Sabha (1867), Bombay Presidency Association (1885), Madras Mahajan Sabha (1884), and finally the Indian National Congress formed in 1885 after the initiation process by a retired British civil servant Mr. A.O Hume .

There nationalist leaders following the western methods of protest of constitutional means like creation of public opinion in India and campaign for support to Indian demands in England, struggle in the forms of prayers, petition and protest for basic civil, political and economic rights at-par with British subjects in India. These leaders used the above-mentioned methods to politically educated the Indian masses. They were of the opinion that political connection with British was in Indian interests at that time and time was not ripe for direct challenge to colonial rule.

However, the anti-colonial movement led by these nationalists proved to be of immense value as they presented before the Indian masses the economic exploitation of the country by its colonial rules. Their efforts also brought the necessary constitutional reforms propaganda in legislature. They campaign vigorously for general administrative reforms and defence of civil rights.

1.2.5 RISE OF EXTREMISTS

The third phase of Anti-colonial movement started due to the disillusionment of the extremist sections of the Indian National Congress led by Lala Lajpat Rai, Bal Gangadhar Tilak and Bipan Chandra Pal. According to these revolutionary leaders, the true nature of British rule was exploitation of the country and the Government, instead of conceding, more was taking away even what already existed.

The rise of extremist leader can be attributed to the following factors:-

- i) The realization of the true nature of British rule, which was exploitation of the country,
- ii) Growth of self-confidence and self-respect,
- iii) Impact of growth of education which resulted into awareness and unemployment,
- iv) International influences and events which demolished the white /European supremacy like:
 - Emergence of Japan – an Asian country as an industrial power,
 - Abyssinia (Ethiopia) victory over Italy,
 - Boer wars (1899-1902) in which the British faced reverses,
 - Japan, victory over Russia (1905), &
 - Nationalist movements worldwide
- v) Reaction to in earning westernization,
- vi) Dissatisfaction with the achievements of Moderates,
- vii) Reactionary polices of Curzon such as the Calcutta Corporation Act (1899), the Official Secrets Act (1904), the Indian Universities Act (1904)

and partition of Bengal (1905).

viii) Existence of a militant school of thought, &

ix) Emergence of a trained leadership.

The extremist leaders believed in the extremist ideology like hatred for foreign rule, belief in the capacity of masses, swaraj as goal and advocacy of direct political action and self sacrifice. This type of anti-colonial movement started as a reaction against the partition of Bengal in 1905.

Though, the moderate section of Indian national congress also pursued the anti-partition movement, but the extremist section were not satisfied with their way of struggle, they (extremists) adopted their own way of protest in the form of boycott of foreign clothes and other goods, public meetings and processions forming corps of volunteers, use of traditional popular festivals and melas for propaganda, emphasis on self-reliance or atma shakti, launching programme of swadeshi or national education, swadeshi or indigenous enterprises, initiating new trends in Indian painting, songs, poetry, pioneering research in science and later calling for boycott of school, colleges, legislative councils, government service etc.

On the other hand, moderate led anti-partition movement involved methods like public meeting, petition, memoranda, propaganda through newspapers and pamphlets. The movement left leaderless further crippled by the split in nationalist rank in the form of moderate-Extremist split at Surat in 1907.

However, this phase of Anti-colonial Movement achieved what was unachievable earlier in the form of participation of hitherto untouched sections participated. Also indigenous culture, science and literature formed the parts of new bolder form of politics.

This phase though suppressed brutally by the British was followed immediately by a more extremist form of Revolutionary Terrorism due to the following reason:

- Younger elements not ready to retreat after the decline of open phase,
- Infact it was the methods of protest which led to the split of congress into moderate and extremist section respectively,
- Also extremists took over because of the failure of the moderates to achieve positive results in addition to the divisive tactics of Governments of both Bengals and severe government repression.

The anti-partition movement involved mass participation ranging from students, women, certain section of zamindars, lower middle classes, middle classes in town and cities participated for the first time, while the Muslims generally kept away.

However, the Swadeshi movement cut fizzled out by 1908 due to severe government repressions, lack of effective organization and a disciplined focus with arrest and deportation of leading figures of the movement like Gokhale, Tilak etc.

However, the latter phase witnessed the emergence of more radical type of anti-colonial movement characterized by revolutionary terrorism due to the following reasons :

- i) Leadership's failure to tap revolutionary energies of the youth,
- ii) Government repression left no peaceful awareness open for protest.

The revolutionaries believed in the assassination of unpopular officials to strike terror in hearts of rulers and arouse people to expel the British physically based on individual heroic action on lines of Irish Nationalists or Russian Nihilists.

Some of the leading revolutionary organizations were the Anushilan Samiti (1902) Yogantar (1906), Mitra Mela (1899) etc. Important leaders of Revolutionary movements were Rashbehari Bose, Sachin Sanyal, VB Phadke, Chapekar Brothers, VD Savarkar, Ajit Singh ,ML Dhingra etc. These extremist also used Journals to propagate their ideology

The anti-colonial movement based on aggressive politics took national stride as a result of launched of Home Rule League movement pioneered by Tilak and Annie Besant on lines of a similar movement in Ireland. During this period, the similar nature of Anti-colonial movement was launched outside India in North America under the leadership of Lala hardayal, Ramchandra, Bhawan Singh, kartar Singh Saraba, Barkatullah, Bhai Parmanand under the Ghadr programme. The Gadrites too believed in official publishing of revolutionary literature, working among the Indian troops abroad and raising the fund for the revolutionary struggle for the purpose of liberating the country from foreign yoke.

1.2.6 GANDHI AND MASS NATIONALISM

The new phase of Anti-colonial Movement started with the advent of Mohan Das Karamchand Gandhi on the national scene in 1915 known as the Phase of Mass Nationalism. It emerged as a result of post-war world-war-I economic hardships, nationalist disillusionment with imperialism worldwide and impact of Russia Revolution.

The phase of Mass nationalism started under the stewardship of Gandhi, who have had experienced the similar movements while being the practicing lawyer in south Africa, against the discrimination indented out to person of Indian origin by dominant white-government. He set-up Natal Indian Congress and started Indian Opinion. He also started satyagraha against registration certificates, restrictions on Indian migration, against poll tax and invalidation of Indian marriages.

In the above-mentioned ways, he established the faith in capacity of masses to fight against discrimination; he was able to revolve his own style of leadership and politics and techniques of struggle. The struggles of national level like Champaran Satyagraha (1917), Ahmadabad Mill Strike (1918), Kheda Satyagraha (1918), Rowlatt Satyagraha (1918), etc. established Gandhi as the leading figure in the era of mass nationalism.

Gandhi took initiation to forge a perpetual unity between Hindus and Muslim in the form of khilafat-Non-cooperation Movement. However incidents like Chauri-chaura prompted Gandhi to withdraw the movement.

The period between 1922-1928, the phase of mass nationalism remain dormant due to involvement of Gandhi Ji in social construction programmes vis-a-vis so called low-castes Hindus and other oppressed sections of the Indian society.

Simultaneously during same period between 1922-1928, new forces of nationalism emerged in which young-guns of the Indian National Movement opposed to the new approach of leaders of congress to enter the legislature council for the purpose of exposing the exploitative rule of the colonial power and such leaders of Congress were known as Swarajists .

These young leaders of the national struggle were inspired by Marxism and Socialist ideas and believed in activism of Indian youths, peasants agitation, growth of trade union anti-caste movement and of course Revolutionary terrorism with a tilt towards socialism.

One of the leading revolutionary organizations was Hindustan Republican Association (HSR) led by well-known youth leader Bhagat Singh.

An important event toward the liberation of the country, was the Nehru Report (1928). This Report was the first concrete step toward drafting of the constitutional scheme by purely Indian legal luminaries. An important feature of the scheme was the dominion status for the country and for the purpose of which the national leaders gave one year ultimatum to British government to accept dominion status or else civil-disobedience to be launched for complete independence.

However the British could not concede the demand of the nationalist and in returns the congress adopted completed independence as its goal and decided to launch a civil disobedience Movement.

The Civil Disobedience Movement was launched under the leadership of Gandhi, who again activated his method of Mass nationalism and started famous Dandi March on 12th of March, 1930. Similar nature of protests and disobedience started in different parts of the country.

These movement put pressure on the British and they invited the Indian nationalist leaders for Round Table Conferences in London. However, the Round Table Conferences failed due to inadequate constitutional measures for Indian and on the issue of separate electorates for depressed classes as according to nationalism such types of electorates were threat to national unity.

1.2.7 QUIT INDIA MOVEMENT

The final phase of Anti-colonial movement started after the declaration of involvement of India along the Allied nations to fought the Axis powers. The Congress Ministries in provinces resign immediately due to non-consultation of Indians while declaring the involvement of India in World War-II.

The British tried to wooed Indian by offering Dominion status to be the long term objective and formation of Constituent Assembly to be formed comprising mainly Indians after the war end. However, minorities consent to be essential for any future settlement, the Congress, however, rejected the offer. The Congress launched Individual Civil Disobedience with 25000 satyagrahis courted arrest.

British sent Cripps Mission (1942) to resolved the Indian dead- lock, still Indian rejected the Mission due to the following reasons :

- Grant of dominion status only,
- Right of province to secede,
- No immediate transfer of power, &
- Retention of governor –general Supremacy.

Afterwards, the Congress launched the quite Indian Movement to achieved ultimate goal of the nationalist leader after the failure of the Cripps Mission. Also the people expressed their discontent against war-time hardships.

Simultaneously the disagreement between the Congress and the Muslim League of reconciliation between the two in the forms of C. Rajagopalachari Formula (1944), Desai-Liaqat Pact, Wavell-Plan (Shimla conference-1945) etc.

At last the British has to conceded the demand for complete independence of Indian due to the following reasons:

- i) A change in global power-equations with UK no longer a power,
- ii) Labour Government sympathetic to India,
- iii) Tired British soldier and shattered British economy,
- iv) Anti-imperialist wave throughout Asia, &
- v) Official feared another Congress revolt.

The British sent Cabinet Mission Plan (1945) to decide on the modalities of transfer of power like formation of the Interior Govt. to be formed from Constituent Assembly. The British sent Louise Mountbatten as the last Governor General of British India to ultimately decide upon the transfer of power and partition of India. On July 18, 1947 British Parliament passes the Indian Independence Act 1947” which was implemented on August 15 1947.

1.2.8 SUMMING UP

As aptly noted down by one of the India’s well known historian, Bipin Chandra, the Indian national movement was undoubtedly one of the biggest mass movements modern Society has ever seen, It was a movement which galvanized millions of People of all classes and ideologies into political action and brought to its knees a mighty colonial empire. Consequently, along with the British, French, Russian, Chine,

Cuban and Vietnam revolutions, it is of great relevance to those wishing to alter the existing political and social structure.

Various aspects of the Indian national movement, especially Gandhian political strategy, are particularly relevant to these movements in societies that broadly function within the confines of the rule of law, and are characterized by a democratic and basically civil libertarian polity. But it is also relevant to other societies. We know for a fact that even Lech Walesa consciously tried to incorporate elements of Gandhian strategy in the Solidarity Movement in Poland.

The Indian national movement, in fact, says Bipin Chandra, provides the only actual historical example of a semi-democratic or democratic type of political structure being successfully replaced or transformed. The Indian national movement is also an example of how the constitutional space offered by the existing structure could be used without getting co-opted by it.

The Indian national movement is perhaps one of the best examples of the creation of an extremely wide movement with a common aim in which diverse political and ideological currents could exist and work and simultaneously continue to contend for overall ideological political hegemony over it. While intense debate on all basic issues was allowed, the diversity and tension did not weaken the cohesion and striking power of the movement; on the contrary, this diversity and atmosphere of freedom and debate became a major source of its strength.

M.A. Political Science, Semester I

Course Title : Indian Political System

Unit – I : Colonialism and Growth of Nationalism

1.3 CONSTITUTION: EVOLUTION, IDEOLOGICAL BASIS AND CHARACTERISTIC FEATURES

- Pankaj Kumar Sharma

STRUCTURE

1.3.0 Objectives

1.3.1 Introduction

1.3.2 Demand for the Constituent Assembly of India

1.3.3 Advocacy and Acceptance of the Demand for the Constituent Assembly

1.3.4 Elections of the Constituent Assembly

1.3.5 Working of the Constituent Assembly

1.3.5.1 Making of Indian Constitution as a Major Task of CA

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1.3.6 Ideological Basis of the Constitution

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1.3.6.3 Importance of the Preamble

1.3.6.4 Preamble: A Part of the Constitution or Not?

1.3.7 Secularism

1.3.8 Let us Sum UP

1.3.0 OBJECTIVES

After going through this lesson you will be able to:

- know the necessity and working of Constituent Assembly.
- understand the role of Constituent Assembly in making of Constitution of India.
- explains the main features of the Preamble to the Indian Constitution
- acquainted with the Philosophy and ideology of the Indian Constitution

1.3.1 INTRODUCTION

The Constituent Assembly was an assembly of the representatives of the people and was assigned the important task of making the Constitution of India. It was a sovereign constitution making body whose power rested upon the sovereign will of the people. Hence, Constitution made by it stands on solid legal foundations and sound reason.

The most important political event in Indian politics is the framing of fundamental laws by a grand Constituent Assembly which worked for a period of about three years to formulate the Basic Law of the Land. At that time, India was struggling for independence. At those gigantic circumstances, it was the most difficult task before the founding fathers. Then they managed to start their monumental work on December 9, 1946. This great achievement in the form of the Constitution of India framed for

the people of India by 'we, the people of India' signified two salient features. First, it speaks that this great country of ours, "was, and also is, a museum of races, languages, religious and cultures, but in spite of it all, there was a unity in its diversity, the latter never being able to disturb the former". Second, as M.Venkatarangaiya remarks, the grand Assembly, "is the only machinery that is consistent with the principal of self-determination accepted today as much by the British as by the people of India, a principle according to which the Constitution should be framed by the 'Indians' for the 'Indians' in accordance with the Indian conceptions".

1.3.2 DEMAND FOR THE CONSTITUENT ASSEMBLY OF INDIA

The dawn of the 20th century came with a new hope for India, and this was the hope for Swaraj or independence. As the representative of Indian public opinion, the Congress passed the Swaraj resolution of 1905, and from this time onwards, the people of India marched ahead in the national mainstream for securing self rule through securing the right to make a constitution for themselves. However, till August 1917, the British rulers did not agree them to exercise the right to self-government. It was only in the Montague Declaration of August 1917, that the establishment of responsible government was accepted as the final goal of British policy in India. It was considered due to the pressure resulting from the World War I and moreover, the environment generated by unity between the Indian National Congress and Muslim League (Lucknow Pact) and between the moderates and extremists in 1916.

However, even after accepting the objectives of responsible government for India as a goal, the Britishers continued to ignore and reject the demand for the establishment of a constituent assembly for framing a constitution.

1.3.3 ADVOCACY AND ACCEPTANCE OF THE DEMAND FOR THE CONSTITUENT ASSEMBLY

In 1922, Mahatma Gandhi put forward this demand while declaring, “Swaraj will not be a free gift of the British parliament, it will be a declaration of India’s full self-expression, That it will be expressed through an Act of parliament is true but it will be merely a courteous ratification of the declared wish of the people of Indian even as it was in the case of the union of South Africa.” Again in 1922, the moderate members of central Legislature advocated the need to call a national convention for securing swaraj in respect of internal administration of India. In 1924 the Swarajists demanded the need for calling a Round Table conference for preparing a plan for the Constitution. They repeated this demand in 1925 and the British ignored it.

M.N. Roy raised the demand for the organisation of a Constituent Assembly of India in 1928. At the same period, as a reaction to the appointment of the Simon Commission with all British membership, Congress stated that it is not in accordance with the principle of self-determination. India National Congress, the Muslim League and the Liberal Federation came together and appointed an all-parties committee headed by Moti Lal Nehru to frame a constitution for an Independent India.

A resolution for complete independence was passed in the Lahore Session of the All India Congress Committee. In December 1929, the formation of the constituent Assembly became one of the major demands.

In its Faizpur session (1936), the Congress declared that it stands for a genuine democratic state in India where political power would be in the hands of people as a whole and the government would be under their effective control. Such a state could only come into existence through a Constituent Assembly elected by adult suffrage and having the power to determine finally the Constitution of the country.

The provincial governments constituted under Act of 1935 passed a resolution supporting the demand for a Constituent Assembly in India. In 1938 Pt Nehru

declared, “The Indian National Congress stand for independence and a democratic state. It has proposed that the Constitution of free India must be framed without outside interference by a Constituent Assembly elected on the basis of Universal Adult franchise.”

During the World War II the British government demanded co-operation from the Indians in 1939. The Congress Working Committee firmly declared through a resolution, “...That recognition of India’s independence and the right of her people to frame their constitution through a Constituent Assembly is essential in order to remove the tint of imperialism from Britain’s policy and to enable the Congress to consider further co-operation. They hold that the Constituent Assembly is the only democratic method of determining the Constitution of a free country and no one who believes in democracy and freedom can possibly take exception to it. The Working Committee believes that the Constituent Assembly is the only adequate instrument for solving communal and other difficulties.”

On 8th August, 1940, Viceroy Lord Linlithgo declared (August offer) among other things that, “after the war, a constituent Assembly shall be established in India”. It was after the end of World war II that the British government through its Cabinet Mission accepted the demand for the establishment of a Constituent Assembly for India.

1.3.4 ELECTIONS FOR THE CONSTITUENT ASSEMBLY

The election for the Constituent Assembly held in July 1946. Out of 210 General Seats, the Congress captured 199, and out of 78 Muslim seats, the Muslim League got 73. Many other seats were captured by the Congress backed candidate and as such it enjoyed the support of 211 members.

1.3.5 WORKING OF THE CONSTITUENT ASSEMBLY

The first meeting of the Constituent Assembly held on 9th December 1946 under the temporary chairmanship of the oldest member, Dr. Sachidanand Sinha. On 11th

December, 1946 it elected Dr Rajendra Prasad as its permanent President. Its membership included all eminent Indian leaders.

Muslim League boycotted the Constituent Assembly because the Congress secured big majority and demanded for direct action for achieving Pakistan.

After getting independence on 15th August 1947, the Constituent Assembly became a fully sovereign body and remained so till the inauguration of the Constitution of India. It acted in a dual capacity during this period, as the Constituent Assembly engaged in the making of the Indian Constitution and, secondly, as the President of India. It started undertaking the legislative work.

1.3.5.1 Making of Indian Constitution as a Major Task of the Constituent Assembly

The major task before the Constituent Assembly was indeed the making of a Constitution of India and just after 4 days of its inaugural meeting, the first step was taken towards this when Pt. Jawahar Lal Nehru introduced the Objectives Resolution in it and described it as a solemn pledge of the people. The Objective Resolution made specific objectives which were to guide the framing of the Constitution. It included the principles of popular sovereignty, justice, liberty, equality, special protection to minorities, unity and integrity of the country and world peace. This resolution was adopted by the Constituent Assembly on 22nd January 1947. It provided the ideological framework within which the Constituent Assembly was to formulate the Constitution of India.

For conducting its work in a systematic manner, the Constituent Assembly constituted several committees which were to report on the subjects assigned to them. Some of these committees were committees on procedural matters, while others were committees on substantive matters. In the first category came Rules of Procedure committee, Finance and staff committee, credential committee, steering committee, Hindi Translation committee, Urdu Translation committee, Press Gallery committee, House committee and committee on Independence Act. The substantive matters

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committees included: Union Powers Committee, Union Constitution Committees, Provincial constituted committee, Advisory committee on Minorities and Fundamental Rights, and committee on Financial Rights between the Union and States. The reports of these committees provided the bricks and mortar for the formulation of the Constitution of India.

1.3.5.2 Drafting Committee and Adoption of the Constitution

The Drafting Committee played a very valuable role in the making of the Constitution. This committee was constituted on 29th August, 1947 with Dr. B R Ambedkar as its Chairman. The members of this committee included such legal luminaries as R L Mitter, N Gopaldaswami Ayyangar, Alladi Krishanswami Ayyar, K M Munshi, Saiyid Mohd. Saadulla, N Madhav Rao and D P Khaitan. After the death of Mr D P Khaitan, T T Krishnamachari was made its member. Dr B N Rau worked as the Chief Constitutional Advisor attached to this Committee.

The Drafting Committee submitted its report to the Constituent Assembly on 21st February 1948 and the Constituent Assembly held debates on it. On the basis of these discussions, a new draft was prepared by the Drafting Committee and submitted to the Assembly on 4th November, 1948. The first debate on this draft held from 4th to 9th November, 1948. Thereafter, from 15th November 1948 to 17th October, 1949 each clause of the draft was thoroughly debated upon and passed. In all 7635 amendments were proposed, out of which 2473 amendments were discussed. From 14th November 1949 to 26th November 1949 final debate was held on the draft. On 26th November, 1949, the constitution was finally adopted and enacted when the constitution was signed by the Constituent Assembly.

The final session of the Constituent Assembly was held on 24th January, 1950. It unanimously elected Dr Rajendra Prasad as the first President of the Republic of India, under the Constitution of India. The Constitution of India was adopted on 26th January, 1950. Constituent Assembly took 2 years, 11 months and 18 days to accomplish the task of making the Constitution. It held 11 plenary sessions and

discussions were held for 114 days. Rs 63,96,273 were spent in this exercise. Constitution of India is, indeed, the highest and the most valuable contribution of the Constituent Assembly to the Indian Political System.

1.3.6 IDEOLOGICAL BASIS OF THE CONSTITUTION

Justice H. R. Khanna in his *Making of Constitution* said: “The framing of a Constitution calls for the highest statecraft. Those entrusted with it have to realize the practical needs of the government and have, at the same time, to keep in view the ideals, which have inspired the nation. They have to be men of vision, yet they cannot forget the grass roots” A Constitution at the same time has to be a living thing, living not for one or two generations but for succeeding generations of men and women. It is for that reason the provisions of the Constitution are couched in general terms, for the great generalities the Constitution have a content and significance that vary from age to age and have, at the same time transcendental continuity about them. ...A constitution states, or ought to state, not the rules of the passing hour, but the principles for an expanding future.

The Indian Constitution is based on the philosophy of evolving an egalitarian society free from fear and bias based on promoting individual freedom in shaping the government of their choice. The whole foundation of constitutional democracy is building a system of governance in systematic machinery functioning automatically on the wheels of norms and regulations but not on individual whims and fancies. It is easy to dream such a system of rule of law than framing a mechanism for it.

The Indian Constitution is a marathon effort to translate philosophical rule of law into practical set up divided into three significant estates checking each other exercising parallel sovereignty and non-egoistic supremacy in their own way. Apart from excellent separation of powers to avoid the absolute concentration, the Constitution of India envisages a distinct distribution of powers between two major levels of Governments - central and provincial with a fair scope for a third tier – the local bodies. However, the operation of the system came in contrast with men

and their manipulations leading to different opinions and indifferent options. Whatever may be the consequential aberrations, the system of rule of law is perfectly reflected in framing of the Constitutional norms codifying the best governing mechanisms tested and trusted in various democratic societies world over.

1.3.6.1 The Preamble

The first Prime Minister of Independent India categorically presented the objective of the constitution in a lucid statement: “The first task of this Assembly (Constituent Assembly) is to free India through a new Constitution, to feed the starving people and clothe the naked masses and to give each Indian the fullest opportunity to develop himself according to his capability”. This resolve reflected in Resolution passed on the 22nd January 1947 and inspired the shaping of the Constitution into a dynamic document. This resolution is the inner theme of the Preamble, which should be read, referred and remembered. Chief Justice of Supreme Court, Justice Subba Rao opined, “Preamble contains, in a nutshell, its ideals and its aspirations.” To understand the philosophy and ideals of the Indian Constitution, we must know the Preamble in the first place. Let us define and analyze the Preamble to the Indian Constitution.

The philosophical base of the Constitution consists of the ideals for which the Constitution stands and the policies which the Constitution enjoins upon the rulers of the community to follow. As the philosophical base of the Indian Constitution has been laid down in the preamble; which is attached to the Constitution and it was finally passed by the constituent assembly on November 24, 1949, and the objectives Resolution, which was moved in the constituent assembly by Pt. Jawaharlal Nehru on December 13, 1946 and unanimously adopted by it on January 22, 1947. The Preamble, the preface to the constitution, describes the source nature, ideology, goals and objectives of the constitution. It describes India as a sovereign, socialist, secular, democratic, republic and underlines the-national objective of socialistic pattern of society. In the words of Pandit Nehru, the aforesaid resolution was

“something more than a resolution. It is a declaration, a firm resolve, a pledge, an undertaking and for all of us a dedication”.

The Oxford Advanced Learner’s Dictionary defines the word “Preamble” as an introduction to a book or a written document. The Constitution of India starts with a Preamble. It is the most precious part of the Constitution. It is the soul of the Constitution. Preamble is an introductory statement, stating the aims and objectives of the constitution. Accordingly, the preamble to the Indian constitution spells out the basic philosophy contained in the body of the Indian Constitution. The preamble is as follows:

“We the people of India, having solemnly resolved to constitute India into a sovereign, socialist, secular, democratic, republic and to secure to all its citizens

JUSTICE: social, economic and political,

LIBERTY: of thought, expression, belief, faith and worship,

EQUALITY: of status and of opportunity and to promote among all its citizens,

FRATERNITY: assuring the dignity of the individual and the unity and integrity of the nation

In our Constituent Assembly this twenty-sixth day of November, 1949, do hereby adopt, enact and give to ourselves this Constitution.”

Reading through the preamble, one can see the purposes that it serves. They are the declaration of (i) the source of the constitution (2) types of Government (3) objectives of the political system and (4) the date of its adoption.

Source of Constitution: The opening words “We the people of India” and the closing words “adopt enact and give to ourselves this constitution” convey that the constitution emanated from the ‘people’ and the sovereignty under the constitution

is vested in the people.

Types of Government: The polity (type of Government) enacted adopted and assumed in the preamble by the people of India themselves, is “Sovereign Socialist, Secular Democratic Republic”. The words ‘socialist’ and ‘secular’ were added in the preamble by 42nd amendment of the constitution.

The expression ‘**sovereign**’ signifies that the Republic is externally sovereign. On 26th January 1950, India became ‘a Sovereign Republic’. However, India is till a member of Commonwealth of Nations. This voluntary membership of India in the Commonwealth indicates a free association with no legal obligation.

The concept of **socialism** was implicit in the constitution in a number of provisions in Part IV dealing with Directive Principles of State Policy. As Granville Austin notes “The core of the commitment to the social revolution lies in parts III and IV, in the Fundamental Rights and in the Directive Principles of State Policy. These are the conscience of the Constitution”. While Fundamental Rights are justiciable and Directive Principles are not, the latter are no less important for the reason. The reason for the distinction between the two is very simply that while the state could straightway guarantee political and civil liberties contained under ‘Fundamental Rights’, it could only secure economic and social justice over a period of time as the economy developed and social change took place. The latter set of rights could not therefore be made justiciable, that is a citizen could not go to a court of law in case of denial. But nonetheless, the state was enjoined upon to do its utmost to apply these precepts when making laws.

The decision to have written rights, a list of rights, a declaration of rights in the constitution marked a sharp break with British constitutional tradition and practice. The British had consistently rejected Indian demands for a list of rights. Indians, on the other hand, because of their colonial experience, had developed a healthy suspicion of government and preferred rights to be written down.

The term **Democratic** is comprehensive. In a narrow political sense, it refers only to the form of government, a representative and responsible system. The administrators of the affairs of the state are chosen by the electorate and accountable to them. But in the broadest sense, it embraces social and economic democracy.

The term **Republic** implies an elected head of the state. A democratic state may have an elected or hereditary head. Britain has a hereditary head. Under a republican form, the head of the state is always elected for a prescribed period. In USA, the President, is the head and elected for a term of four years. India has chosen the system of electing one of its citizens as its president for a term of five years.

Objectives of the Indian Republic

The preamble proceeds further to define the objectives of the Republic. These Objectives are four: Justice, Liberty, Equality and Fraternity.

Justice implies a “harmonious reconciliation of individual conducts with the general welfare of the society”. The essence of justice is the attainment of the common good. It embraces the entire social, economic and political spheres of human activity.

The term **Liberty** is used in the Preamble not merely in a negative but also in a positive sense. It signifies not only the absence of any arbitrary restraint on the freedom of the individual action, but also the creation of conditions for the fullest development of the personality of the individual. Since society is constituted of individuals, social progress depends on the progress of the individual.

Equality is complementary to Liberty. Equality does not mean that all human beings are equal mentally and physically. It really signifies the equality of status, the status of free individuals and equality of opportunity. Equality of opportunity implies the availability of opportunity to everyone to develop his or her potential capacities. The concept of ‘equality’ envisaged in the Preamble as it embraces both equality of status and of opportunity.

Finally, the Preamble signifies the objective of **Fraternity**. The concept of fraternity ensures both the dignity for the individual and the unit and integrity of the nation. The spirit of brotherhood among citizens was first emphasized by the French Revolution and ever since, it has become a slogan of universal application. In the declaration of Human Rights, the UNO proclaims “All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood”. The spirit of brotherhood is emphasized by the use of term “fraternity” in the Preamble.

1.3.6.2 Characteristic Features of the Preamble

A former Chief-Justice of India Dr. P. B. Gajendragadkar observed, “The Preamble is a short statement but its significance cannot be overrated.” The preamble refers to nature of Indian State and the objectives which are to be achieved for all the citizens. It also testifies to the concept of popular sovereignty and records the date on which the constitution was finally adopted by the Constituent Assembly.

The first and the last word of the preamble i.e. ‘WE, THE PEOPLE OF INDIA... IN OUR CONSTITUENT ASSEMBLY... DO HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION,’ clearly reveals that the source of authority or constitution is the people of India. The people are the ultimate source of all authority. The Govt. derives its sovereignty from the people. In this way, the preamble accepts the principle of popular sovereignty.

Date of Adoption and Enactment

In its final paragraph, Preamble specifies the important historical fact that the Constitution was adopted on 26th November, 1949. It was on this day that the Constitution received the signatures of the President of the Constituent Assembly and it was declared passed.

1.3.6.3 Importance of the Preamble

The wording of the Preamble highlights some of the fundamental values and guiding

principles on which the Constitution of India is based. The Preamble serves as a guiding light for the Constitution and judges interpret the Constitution in its light. In a majority of decisions, the Supreme Court of India has ruled that neither it nor any of its content is legally enforceable. The Preamble plays a pivotal role when there is ambiguity in provisions of any Article or interpretation becomes confusing. This is when the spirit of the Preamble becomes the guiding factor. The Preamble is stem, root and source of the constitution.

The importance and utility of the preamble has been pointed out in several decisions of our Supreme Court. Though, by itself, it is not enforceable in a court of law, the preamble to a written constitution states the objects which the Constitution seeks to establish and promote and also aids in the legal interpretation of the Constitution where the language is found to be ambiguous.

The preamble serves the following points:-

1. It indicates the sources from where the constitution has come viz. the people of India.
2. It contains the enacting clause which brings into force the constitution.
3. It declares the freedoms which the people of India intended to secure to all citizens and
4. The basic type of government and polity which was to be established.
5. It also states the objects which the Constitution seeks to establish and promote

1.3.6.4 Preamble: A Part of the Constitution or Not?

The Preamble to the Indian Constitution has a great significance. It is important to mention here that, in the 'Berubari Case' (1960) the Supreme Court held that the Preamble is not a part of the Constitution. But the famous case i.e. 'Keshavananda Bharti vs. State of Kerala' (1973) has held that the Preamble is a part of the

Constitution. It was also held in this case that the Preamble could be amended by the Parliament under Article 368 but the 'Basic Structure' of the Constitution could not be changed. Thus, the Preamble can be amended but our Parliament cannot amend the Constitution in a way that it damages or destroys the objectives specified in the Preamble.

Berubari case of 1960 was the Presidential Reference "Under Article 143(1) of the Constitution of India, on the implementation of the Indo-Pak agreement relating to Berubari union and exchange of enclaves"; which come up for consideration by a bench consisting of eight judges headed by B.P.Sinha. The holdings in Berubari Case have been succinctly summed up later by Sheela and Grover, JJ as under:

1. A Preamble to the Constitution serves as a key to open the minds of the framers, and shows the general purpose for which they made the several provisions in the Constitution;
2. The Preamble is not a part of our Constitution;
3. It is not a source of the several powers conferred on government under the provisions of the Constitution;
4. Such powers embrace those expressly granted in the body of the Constitution and such as may be implied from those granted;
5. What is true about the powers is equally true about the prohibitions and limitations;
6. The Preamble did not indicate the assumptions that the first part of the Preamble postulates a very serious limitation on one of the very important attributes of sovereignty.

No doubt in some judgments like in A.K. Gopalan vs. State of Madras, it was contended that the Preamble to our Constitution which seeks to give India a 'democratic' Constitution should be the guiding star in its interpretation and hence

any law made under Article 21 should be as void if it offended against the principles of natural justice, for otherwise the so-called fundamental right to life and personal liberty would have no protection. The majority of the Supreme Court rejected this contention, holding that 'law' in Article 21 refer to 'positive or State –made law' and not natural justice, i.e. the meaning of the language of Article 21 could not be modified with reference to the Preamble. In short, the Preamble shows the general purpose behind the several provisions of the constitution but, nevertheless, it is never regarded as a source of any substantive or limitation. But, the motion adopted by the Constituent Assembly stated in so many words that the Preamble stands as a part of the Constitution.

The error laid in above stated judgment came to be corrected in Kesavananda Bharti vs State of Kerala of 1973 case where the majority specifically ruled that the Preamble was as much a part of the constitution as any other provision therein. Kesavanada Bharti Case has created a history. For the first time, a bench of 13 Judges assembled and sat in its original jurisdiction for hearing the writ petition. With the ration of 7:6, it was held in this case:

- a. that the Preamble to the Constitution of India is a part of Constitution
- b. that the Preamble is neither a source of power nor a source of limitations
- c. the Preamble has a significant role to play in the interpretation of statues, also in the interpretation of provisions of the Constitution.

The Preamble of the Constitution of India is one of the best of its kind ever drafted. Both in ideas and expression it is a unique one. It embodies the spirit of the constitution to build up an independent nation which will ensure the triumph of justice, liberty, equality and fraternity. One of the members of the Constituent Assembly (Pundit Thakur Das Bhargava) rose to poetic heights when he said, "The Preamble is the most precious part of the Constitution. It is the soul of the Constitution. It is a key to the Constitution. It is a jewel set in the Constitution."

The Preamble of the Constitution is the vision of the Constituent Assembly. It reflects the dream of the framers of the Constitution. As it reflects the aspirations of the framers it at once becomes the philosophy and soul of the Constitution the rest of the Constitution is the explanation of the objectives and ideals contained in the Preamble. Various judges have different opinions with regard to importance of preamble. As C.J. Sikri rightly observed in the *Keshvandanda Bharti* case, “It seems to me that Preamble of any constitution is of extreme importance and the constitution should be read and interpreted in the light of grand and noble vision expressed in the Preamble.” Likewise C.J. Subba Rao also rightly remarked, the objectives sought to be achieved by the Constitution are declared in serious terms by its Preamble. It contains in a nut-shell its ideals and its aspirations. The Preamble is not a platitude but the mode of its realisation as worked out in detail in the Constitution.

C. J. Hidayratullah rightly declared it as the soul of over Constitutions. According to him, “It lays down the pattern of our political society which it states is sovereign democratic, republic. It contains a solemn resolve which nothing but a revolution can alter.” While discussing the importance of the Preamble, M.V. Pylee observes: “The Preamble of the Constitution is one of the best of its kind ever drafted. Both in ideas and in expression it is unrivalled. It embodies the spirit of the Constitution, the determination of India people to unite them in a common adventure of building up a new and independent nation which will ensure the triumph of Justice, Liberty, equality and fraternity.”

Democracy, in any sense, cannot be established unless certain minimal rights, which are essential for a free and civilised existence, are assured to every member of the community. The preamble mentions these essential individual rights as ‘freedom of thought, expression, belief, faith and worship’ and these are guaranteed against all the authorities of the state by part III of the constitution. Guaranteeing of certain rights to each individual would be meaningless unless all inequality is banished from the social structure and each individual is assured of equality of status and opportunity

for the development of the best in him and the means for the enforcement of the rights guaranteed to him. This object is secured in the body of the Constitution, by making illegal all discriminations by the state between citizen and citizen simply on grounds of religion, race, caste, sex or place of birth.

1.3.7 SECULARISM

Even though the term secular was added only by the 42nd Amendment in 1976, the spirit embodying the constitution was secular. In 1973 the Supreme Court held the secular character of the constitution to be one of the basic features of the constitution. Further, the Fundamental Rights include prohibition of discrimination on grounds of religion and right to freedom of religion including freedom of conscience and free profession, practise and propagation of religion, freedom to manage religious affairs, freedom to pay taxes for promotion of any particular religion and freedom to attendance at religious instruction or religious worship in certain educational institutions, cultural and educational rights including protection of interests of minorities and their rights to establish and administer educational institutions.

The debate over the meaning of the term secular in the Indian context has been a heated one. Some people have argued that the Western context from which the term secular is borrowed is a very different one. In the West, the outcome of the struggle between the Church and the state led to the separation of the two. In India, the concept of secularism evolved as part of the struggle of nationalist forces against communal forces that wanted to use religion for political purposes and divide the emerging nation on the basis of religion. Dr. S. Radha Krishnan, the renowned scholar of Indian Philosophy, who was President of India from 1962 to 1967, placed secularism within the Indian tradition: “We hold that no religion should be given preferential status of unique distinction. No group of citizens shall arrogate to itself rights and privileges that it denies to others. No person should suffer any form of disability or discrimination because of his religion but all alike should be free to share to the fullest degree in the common life. Secularism as here defined is in accordance with the ancient religious tradition of India.

1.3.8 LET US SUM UP

Preamble is a key to the interpretation of the Constitution. It is a part of the basic structure of the constitution in so far as it states the philosophy, the ideals and the objectives of the Constitution. It is through its Preamble that the Constitution of India commits itself to a social revolution. It contains the basic objectives of the Constitution. As G. C. Venkata Subba Rao rightly observed, “Spirit or the ideology behind the Constitution is sufficiently crystallised in the preamble.” It should be regarded as the guiding star in the interpretation of law irrespective of the fact that its text may or may not, cover the entire world of law as obtaining in the country.

M.A. Political Science, Semester I

Course Title : Indian Political System

Unit – I : Colonialism and Growth of Nationalism

**1.4 NATURE OF STATE IN INDIA : DEMOCRATIC,
DEVELOPMENT AND COERCIVE DIMENSION**

- Nagendra Rao

STRUCTURE

1.4.0 Objectives

1.4.1 Introduction

1.4.2 Democratic Nature of Indian State

1.4.3 Development Dimension of Indian State

1.4.4 Coercive Nature of Indian State

1.4.0 OBJECTIVES

After going through this lesson you will be able to:

- Know the nature of the state in India;
- understand the democratic nature of Indian State
- comprehend the development dimension of the Indian State
- acquainted with the coercive aspect of Indian State.

1.4.1 INTRODUCTION

Modern State in India has been a colonial legacy. Territorial consolidation of Indian State was set in motion during the colonial period in the form of British India. The colonial conquest one after another princely state resulted into the territorial consolidation of India. Modern means of transportation and communication had further contributed to construction of political nation and territoriality of modern state. Modern State was conceived as a Nation-State through the process of Nation-building and State-building. The Indian State had attempted to reinforce the authority of centralised state structure by constructing the political nation out of the multi-cultural, multi-lingual and multi-religious social universe.

Neither democracy nor the parliamentary democracy has been indigenous to Indian situation rather they are planted tree in this region. British colonizers not only introduced the idea of democracy to the people of Indian sub-continent but also made successful attempts to lay down the foundations of parliamentary democracy.

Besides this, colonialism codified the legal system in the Indian sub-continent by passing the various laws ranging from procedural to substantive laws. The laws related to the establishment of courts to deal with the criminal and civil matters, the British Parliament passed the Criminal Procedure Code and Civil Procedure Code respectively apart from passing the India Penal Code, India Evidence Act and India Police Act. These acts codified and institutionalized the modern legal system in India that has been still prevailing with little bit modifications. The colonial legal system was based on the concept of equality of all before the law irrespective of a person's caste, religion, class or status. Colonial rulers also extended a certain amount of civil liberties in the form of the freedom of the press, speech and association in normal times, but curtailed them drastically in the periods of mass struggle.

After adopting the Constitution, the post-colonial India state attempted to give a shape to its federal structure. The two-tier political structure of India was further

differentiated by the 73rd and 74th Constitutional Amendments in 1993 by inserting third tier at the local level. The written constitution in India was required to serve the larger purpose that was to provide the distribution of legislative, administrative and economic powers between the Indian Union and the States; to describe the powers and jurisdiction of each organ of government at three levels apart from harmonizing the various structures of governments like legislature, executive and judiciary at each levels. Indian constitution has not only established the supremacy of legislature vis-a-vis executive and independence of judiciary but also established the legal sovereignty of the constitution and political sovereignty of the people at large democracy has been defined as the government of the people by the people and for the people. This definition makes one thing clear that people remain an integral part of this process both as an objective and participants. In other words, democracy invariably intends to benefit the people by providing each individual an opportunity to grow. For this, active participation of the people in the system, including accommodate state apparatus is necessary.

1.4.2 DEMOCRATIC NATURE

Success of democracy largely depends upon people's participation in the political process. Experiences in the region however present somehow gloomy picture. Neither the people are getting opportunities for making their voice heard and make the political system responsible towards them. Nor the prevalent state of affairs in each country allows them to do so. Even in the country like India, where constitution legally ensures social, economic and political equality in all spheres of the life but as far as implementation of these provisions are concerned India still has long way to go. Power dynamics inflate different forms of violence, either during the electoral process or while securing political party positions. The power of money, position and arms is considered key to providing a person with the required status in society. Coupled with it, the rampant scale of corruption has weakened the democratic process in the region. This is evident in the region if one goes through how the rights of the people are being denied. Even a small assignment cannot be

accomplished without greasing the palm of officialdom. This menace of corruption is prevalent from lower to higher echelon of state machinery. In short, corruption has fully institutionalized in the society. The onslaughts of globalization and economic liberalization have further changed the social landscapes adversely. Whatever small benefits these processes extend remain confined only to already privileged class, thus contributing in the increase of economic inequalities in the region. The poor law and order situations is unable stop these wrong doings. Consequently, the people in the region have been deprived of civil liberties, security and socio-economic rights that ultimately impede the democratic process to flourish. Unfamiliarity of the politicians with the working of political and administrative institutions of the state and lack of genuine commitment for balanced socio-economic development on their part reinforced their tendency of depending upon the bureaucrats. Further, the major theme of political mobilization that was adopted by the politicians in these countries related to caste, ethnicity, religion, language or cultural factors. In addition, strong feudal and traditional values, including patriarchal cultural practices obstructed capacity building and improvement, including taking up of opportunities for women, dalits, tribal, ethnic and minority communities in country. This has prevented marginalized sections of the society from participating in political decision making processes. Cumulative effect of these political developments and inclinations was that no real change in the relationship between elected and non-elected institutions was brought about and the citizen's rights were reduced to the "formal periodical exercise of voting rights" with no ethics of representative accountability towards them that is regarded crucial for any substantive and vibrant democracy to develop that in turn is essential for the evolution and growth of civic bonds and nation.

Success of democracy also depends upon the effectiveness of political structures and institutions. The region however lacked badly in this regard. Take the case of political parties, which are inevitable for the working of any democratic setup. In India multi-party system is evolving. The mainstream parties have been in decline in terms of ethos, functioning and programmes. However, the number and role of

regional political parties is increasing. This is evident from their influence not only prevailing upon the policy formation at the national level, but also influencing foreign policy decisions.

Poor records of maintaining dignity associated with the working of political structures and processes turn into a big obstacle before evolving of democratic culture in the region. Say for instance, Parliament in India is a custodian of people's rights that not only makes government responsible towards the people but also provides a platform to develop the dialogue inside the house. But on the ground, ruling and opposition alliances try to impose their narrow agenda over the other. Take the example of BJP led government that instead of engaging opposition opted for non-deliberative legislative alternatives. Thus aware of their lack of majority in the Rajya Sabha, they chose issuing of ordinances instead of reaching out to the opposition. The role of Congress led alliance in the house is equally discouraging. They did not leave any stone unturned to corner the government, hence this approach seemed to be more fault finding than corrective exercise. Equally discouraging is the relationship between the executive and legislature vis-a-vis judiciary that often impede democratic process. Many a times, these institutions blame each other for transgressing their jurisdiction. In some countries, judicial system has become puppet in the hands of governments. Above all, judicial system is very expensive and marked by unnecessary delay in the disposal of justice. Even the media that is considered to be the fourth pillar of democracy is under several constraints in the region. Otherwise, it has decisive role to play in strengthening democracy by forming public opinion and making the governments accountable. Such is the state of affairs that has come in between the evolution of democratic processes in the countries of the region. Notwithstanding these observations, in the recent past a slow but steady development towards setting up of a democratic polity and consolidation of political processes and institutions has taken place.

1.4.2.1 Democratic Process in India

The constituent assembly of India debated the issue of selecting a particular form of government for independent India. The question of relative suitability of the parliamentary and presidential form of government was discussed and large majority members supported the adoption of parliamentary system because it appeared to be more suitable and because we Indians had some experience in the working of this model. Hence constitution makers decided to incorporate in the constitution of India a full system of parliamentary democracy, i.e., democratic system working with a parliamentary form of government.

Independent India have been living with the parliamentary democracy. The system has been working successful despite the fact that several hindrances have been present and continues to be present even today.

1.4.2.2 Reasons behind the Democratic Dimension in India.

Indian democracy can be described as a developing liberal democracy based mostly upon the western liberal democratic system. India unanimously adopted this model. There are certain reasons by which we can say that India is a democratic country.

Sovereignty of the people

The people of India are the sources of all authority. They alone have the authority to elect their government and vest it with power and authority. They can change the government and their will is supreme. The preamble of Indian constitution clearly repose faith in popular sovereignty.

Representative government

Like every liberal democratic system the government in India is also formed by the elected representative of the people government is elected by the people. The members of the parliament are elected by the people for a fixed term. The right to vote is available to all without any discrimination on the basis of caste, color, creed,

place of birth, religion, sex and property.

Civil liberties

The people of India have right to vote to freely express their views. They have to right to freedom of speech and expression. Freedom of press and other means of mass media is ensured. People have right to form voluntary association and parties and through them to pressure their interest. The constitution of India in its part III confers guarantees the fundamental freedom of the people.

Defined and specific role of executive

In a liberal democratic system the role of executive is defined. The political executive undertakes policy formation and the permanent executive. The civil servants implement the decision and policies of the government. The political executives are the representative of the people and the responsive to the public opinion. They supervise the functioning of civil servants.

Limited government

The liberal democracy involves the concept of a limited government. The government exercises only such power as are granted to it by the constitution. The manner in which these power to be exercised by the government institution is also specified and defined. The government is not allowed to exercise its power in excess of the one given to it by the constitution. Each power holder is accountable for the power used by him.

Independent and impartial judiciary

The existence of free fair and independent judiciary with the power to interpret and defined the constitution and fundamental rights and freedoms of the people against any violation by any law or executive order is another vital feature of Indian democracy.

Other features

The other features are the universal adult franchise, equal political rights of all election commission, multiparty system, secularism, decentralization of power, rule of law, institution of local self government, single citizenship.

All the above mentioned features fully reflect the democratic nature of the Indian state, liberalism is the very base of the Indian polity. The socialist goals are being achieved through liberal means. However Indian political system is still a developing democratic system. There have been present several socio –economic constraints in its environment- casteism, poverty, corruption, illiteracy, ignorance, unemployment communalism and linguism etc.

1.4.3 DEVELOPMENT DIMENSION OF INDIAN STATE

Just after the attainment of independence the government setup the planning commission in 1950 for the most effective and balance utilization of the country's resources. The most important characteristics of Indian plans are their development orientation. This implies emphasis on and priority for the building of productive capacity of the economy. Except the first five year plan when agriculture was attached greater importance than industry, the plans have been concerned largely with the raising of capital stock of the country. There have been variation on this central theme but by and large the task of the capacity building has remained in the forefront. The basic objectives of India's planning are:

- A) Growth
- B) Modernization
- C) Self reliance
- D) Social justice

The main features of India's strategy for development are-

1.4.3.1 Planning

India has adopted planning as a medium for development. The most important reason for adoption of planning was that it was considered a superior way of developing the economy. It was rightly thought that planning was essential to ensure a quick building of the productive capacity of the country. Planning was looked upon as an instrument which could enable the government to undertake many big tasks, which carries for big solutions.

1.4.3.2 Mixed economy

The concept of mixed economy admits the possibility of the existence of private enterprise side by side with public enterprise. India is regarded as good example of mixed economy. In India, the state demarcated the areas for the promotion of industries in the public and the private sector. This division was specified in the industrial policy resolution of 1951. Although the private sector was conceived as a senior partner in the process of development, the private sector was to be permitted to exist and supplement the efforts of the public sector within the overall frame work laid down for the country.

1.4.3.3 Role of the private sector

The development strategy assigned a dominant role to the public sector. As investment in the heavy sector was very high and as the gestation period was too long and also with low profitability, the government felt that heavy industries should be by and large in the public sector. It was for this reason that from the second plan onwards, the government went in a long way for the expansion of public sector.

1.4.3.4 Heavy industries strategy

The core of the strategy adopted by the India planner for the second plan and with minor modification for the subsequent there plans was rapid industrialization, though lumpy investment on heavy, basic and , machine building industries.

If we look at the industrial policy of India, it declared its first policy on April 6, 1948. The policy established a base for mixed economy and controlled economy in India. Later on it was replaced by a new industrial policy of 1956, with the basic objective of establishing “socialistic pattern of society” in the country. In June 1991, Narsimha Rao government took over changes and wave of reforms and liberalization was observed in the economy. In the agriculture sector, India introduced Green Revolution with the use of High Yielding variety seeds (HYVS) during 1960's. Then second green revolution introduced genetically modified seeds. The evergreen revolution wants to reduce agricultural stress by producing livelihood security and maintain sustainability.

1.4.4 COERCIVE DIMENSION OF INDIAN STATE

On 15 August 1947, nearly two hundred years of British colonial rule came to an end in the Indian sub-continent. The anti-colonial movement reaped its political harvest, after decades of political mobilisation. One of the most urgent questions we face today concerns the roots of the global re-emergence of a political authoritarianism that was considered obsolete up till recently. It is the seemingly irresistible rise of political forces, which strive to hollow out, diminish or remove democratic fundamental rights in response to often self-created emergencies. This certainly is neither a specifically Indian problem nor can it be reduced to the development deficit of the so-called ‘less developed’ regions of the world.

In India too, worrisome restrictions are imposed on freedom and rights by the present government that are seldom recognised by a German public primarily interested in export markets. Many of the current restrictions have a long history—in colonial as well as in postcolonial India. They merely assume a greater intensity in the current situation marked by global economic and social instability. In this context I refer to the excessive use of Section 124a of the Indian Penal Code on ‘revolt’ and ‘sedition’ against students, intellectuals, journalists, artists and NGO-activists branded as anti-nationals. According to official estimates it was used 47

times in 2014, during the current prime minister Modi's first year in office.

Authoritarianism is a theory and a system of government usually identified with absolute rule, sternly opposite to democracy. Obedience to authority is sought. There is no autonomy to individuals. Especially freedom of expression and thought has been denied. Authoritarianism is an integral part of governance; though it varies from country to country. This may be attributed partly due to the colonial legacies that these countries have inherited and partly due to the continuance of these by the ruling elites to achieve their narrow agenda. Hence one finds that the newly independent countries have retained the colonial state's methods of bureaucratic control and centralization. The state in the colonies was absolutist and authoritative. The emphasis of the colonial state was to bring administrative and geographic unity irrespective of any concerns for political or cultural unity. For this centralization was more and more depended upon. In the post-independence period many of such practices were reinforced through the colonial administrative structures that were not only retained but in most of the cases were further expanded by the elite. For instance, the Government of India Act 1935 that was the bedrock of constitutional structure in even post-independent India and Pakistan was devised by the colonial rulers to strengthen the bureaucratic "steel-frame" of the British Raj. The federal structure with conspicuous inclinations towards centre, division of subjects with bias towards union parliament, continuation of the all India services and other such provisions further illustrate the above mentioned tendencies. These practices have been a major reason behind the retarded growth of a genuine representative and responsible political institutions in general and executive in particular in the post-independence period. Clearly, instead of revamping administrative paraphernalia in order to guarantee the supremacy of the political institutions over non-elective bureaucracy. Unfamiliarity of the politicians with the working of political and administrative institutions of the state and lack of genuine commitment for balanced socio-economic development on their part reinforced their tendency of depending upon the bureaucrats. As such no real change in the relationship between elected

and non-elected institutions was witnessed in the post-colonial states. The citizen's rights were reduced to the "formal periodical exercise of voting rights" with no ethics of representative accountability towards them that is regarded crucial for any substantive and vibrant democracy to develop. In order to establish sovereign power of the state on the diverse socio-political and cultural communities within their respective territories the post-colonial elite of states depended upon the authoritarian and unrepresentative bureaucracy, which was neither responsible nor accountable towards the people.

Since its independence in 1947, India has fought dozen of campaigns against four distinct and independent insurgencies on its soil in Punjab, Kashmir, the northeast and the Maoist insurgents of the central India. While India has accumulated a wealth of counterinsurgency experience that has varied in terms of terrain, insurgent, goal, force structure, foreign involvement and outcomes. India's counter insurgencies (COIN) strategies can offer important lesson.

The insurgency in Indian state of Punjab originated in the late 1970's as same Sikhs including Khalistan proponents turned into militancy. The congress government decided to repress the mass agitation with a heavy hand, over a hundred people were killed in police firings. After this Bindrawale suggested it was time for a militant approach with the help of arms and weapons to solve the problems of majority Punjab population leading to the beginning of the insurgency. On 6 June 1984 Bindrawale was shot dead in "operation Blue Star" and on 31 October 1984 Indira Gandhi was assassinated by her body guards Satwant Singh and Beant Singh. These two events played a major role to the Sikhs and Anti Sikh violence that would consume Punjab till the Rajiv- Longwale accord 1987.

If we look at the Kashmir issue, the root of conflict between the Kashmir insurgents and the Indian government is tied to a dispute over local authority. Democratic development was limited in Kashmir until the late 1970's and by 1988, many of the democratic reforms introduced by the Indian government had been reversed. Although

thousands of people have died as a result of the turmoil in Jammu and Kashmir, the conflict has become less deadly in recent years. The Indian military have been active in J&K since 1989.

According to the Amnesty international as of June 2015, no member of the Indian Army deployed in J&K has been tried for human rights violation in a civilian court, although there have been military court martials held.

The coercive dimension of Indian state is also seen in response to forces, investment and dedicated anti Naxal forces, modernization of police forces etc. the governmental policies regarding naxalism are- operation steeplechase, unified command, operation green hunt, integrated action planed, surrender policies by state government etc.

The government of India response to the insurgencies in the Northeast India has four parameters viz- structural changes in administration, developmental activities, dialogues and negotiations and use of force. In 2011, the government of India had identified 79 armed insurgents groups in six states. However, government of India hs proportionately used Indian Army in its counter insurgency (COIN) strategies.

Notwithstanding, India government had used force under the regime of Indira Gandhi. It clearly depicts that Indira Gandhi was an authoritarian leader in a democratic setup. Apart from that there are certain articles of the Indian constitution are applicable to the states without the rectification of states like Article 3 of the Indian constitution proclamation of national emergency under Article 352, president rule and Article 356 and financial emergency under Article 360. During national emergency all the fundamental rights get suspended expect Article 20 &21.

M.A. Political Science, Semester I
Course Title: Indian Political System
Unit –II: Structures of Governance

2.1 FEDERALISM: STRUCTURE, NATURE, STRAINS AND EMERGING TRENDS

- Pankaj Kumar Sharma

STRUCTURE

- 2.1.0 Objectives**
- 2.1.1 Introduction**
- 2.1.2 Concept of Federalism: Varied Notions**
- 2.1.3 Federal Features of Indian Constitution**
- 2.1.4 Purpose of Formation of Federation**
- 2.1.5 India as a Quasi-Federal**
- 2.1.6 Indian Union: Eternal and Indestructible**
- 2.1.7 Main Features of Centre-State Relations**
- 2.1.8 Distribution of Powers**
- 2.1.9 Centre-State Coordination**
- 2.1.10 Functional Trends in Centre-State Relations**

2.1.11 Emerging Trends in Indian Federalism

2.1.12 Strains in Indian Federalism

2.1.13 Let's Sum Up

2.1.0 OBJECTIVES

This unit concerns itself with the features of Indian Federation. After going through this unit, you should be able to discuss as to:

- What are the federal features of Indian constitution?
- What are the unitary features of Indian constitution?
- What are strains in Indian federalism?

2.1.1 INTRODUCTION

The Constitution of India ushers into the country a polity based fundamentally on two ingredients – a British type democratic system of government and federalism. India, says the Constitution, is to be a Union of States. The Constitution makes elaborate provisions covering many aspects of Centre-State and interstate relationship, and in this respect it differs from the constitutions of the USA and Canada which contain only skeletal provisions to regulate intergovernmental relationship.

2.1.2 CONCEPT OF FEDERALISM : VARIED NOTIONS

The term federalism comes from the Latin word 'foedus', which means contract or covenant. The formation of federation is an act of contract among the contracting units. They are bound with the terms and conditions of the contract. This contract is codified in the form of a written constitution. It is a system of multilevel governance, where each level of government will have a constitutional basis of authority. Their powers will be original, not delegated powers of central or union government.

It connotes the theory or advocacy of federal political orders, where final authority is divided between sub-units and a Centre. Sovereignty is constitutionally split between at least two territorial levels so that units at each level have final authority and can act independently of the others in some area. There are thus two authorities for the citizens to oblige politically. This allocation of authority between the sub-units and the Centre may vary. Therefore, Federalism is the principle of sharing sovereignty between the central and states (provincial) governments.

Indian federalism is defined by Granville Austin as Cooperative federalism, which is the result of strong bargaining process. Prof. M.P. Singh defines Indian federalism as Executive federalism. India opted for parliamentary federalism where executives of centre and state play prominent negotiating role which is more of executives managed federalism.

Prof. Morris Jones prefers to call India as Bargaining Federalism. The bargaining tendencies of federalism become strong in the context of breakdown of congress system and rise of regional parties.

In contemporary times scholars like Douglass Verney suggest that India is moving towards a quasi-confederal model, which means an extremely weak centre and increasingly powerful states. Following factors are responsible for present situations: emergence of coalition politics at centre and rise of regional parties; the new economic policy; judicial activism and presidential activism.

Lawrence Suez points towards the increasing importance of states and the losing significance of centre especially in context of economic sphere. He points towards changing trend of fiscal federalism in India. From 11th Finance Commission onwards, all central taxes have become divisible between centre and state.

Thus Indian federalism is being explained by scholars in various ways. As far as recent trend is concerned, federalism is on the way of strengthening and India has 3- tier federal system.

K.C. Wheare: India is basically a unitary state having nominal federal characteristics. Indian constitution is quasi-federal.

D.D. Basu- Indian constitution is neither pure federal nor pure unitary. It is mixture of both. This is a federation of a new type based on the principle that national interest is supreme.

Prof. Pyle: Indian constitution is federal in structure but unitary in spirit.

Sir Ivor Jennings: India has a federation with a strong centralizing tendency.

Morris Jones calls Indian federalism is bargaining federalism.

G.Austin: Indian federal system is an example of Cooperative federalism with a strong central government.

Prof Alexandrowicz: India is a case of Sui-generis.

Dr. Subash Kashyap: the Indian constitution establishes a strong centre.

K.M. Munshi: India is a quasi-federal union invested with several important features of a unitary government.

C.N. Joshi- Quasi-federal polity.

2.1.3 FEDERAL FEATURES OF THE CONSTITUTION

The nature of Indian federal state and the provisions in the Constitution detailed below.

Written Constitution: Federalism is a contract between two governments. A written constitution is inevitable in a federal system which can clearly define powers of the two governments in written clauses. Indian constitution, to this extent, fulfils the federal conditions and hence shows a federal character.

Supremacy of the Constitution: Federal states derive its existence from the constitution. Every power – executive, legislature or judicial – whether it belongs to

the federation or to the component states is subordinated to and controlled by the constitution.

Dual Government: there are two governments – the national or federal government and the government of each component state. A federal Constitution establishes a **dual polity with the Union at the Centre and the States at the periphery**, each endowed with powers to be exercised in the field assigned to them. The component states are not mere delegates/agents of the federal government but both federal and state governments draw their authority from the same source viz. the constitution of the land. The legislative, executive and the financial authority are divided between the Centre and the Units not by any law passed by the Centre but by the Constitution itself. A component state has no right to secede from the federation at its will.

Distribution of Powers: Division of powers and constitutional autonomy of the two governments is considered to be the essence of a federal constitution. The constitution of India divides the subjects between the Union and the States. There are three lists of subjects included in the Constitution. The Union List includes 100 subjects on which the Union Govt. has exclusive jurisdiction. The State List has 61 subjects which the state alone can make laws and administer. In addition to these there is Concurrent List with 52 subjects. These are common to both the Union and the States and they can make laws on them concurrently. If there is any conflict between the laws of a state and of the Union Government on these subjects, the latter prevails. In fact it was presumed that central co-ordination in certain fields would be desirable, in the national interest and therefore, these subjects of national and common interest were placed in the concurrent jurisdiction of the two governments. This exhaustive attempt to define the jurisdiction of the two partners, support the federal nature of the constitution

Supreme and Independent Judiciary: The division of power and allotment of different spheres of action to the two governments makes litigation inevitable and unavoidable. To resolve these legal problems arising out of the various interpretations of the constitution by the two governments necessitates the need of independent judicial machinery. Indian Constitution provides a system of judicial review of the governmental

legislations, by an impartial judicial body the Supreme Court and the High Courts. Judiciary can set aside any act passed by any government if it goes against the provisions of the constitution or if in its opinion the legislature has not followed the procedure laid down by law.

Authority of Courts: Vested the courts a final power to interpret the constitution and nullify any action on the part of the federal and state governments or their different organs which violates the provisions of the constitution.

Rigid Constitution: The procedure of amending the Constitution in a federal system is normally rigid. Indian Constitution provides that some amendments require a special majority. Such an amendment has to be passed by majority of total members of each house of the Parliament as well as by two-thirds majority of the members present and voting there in. However, in addition to this process, some amendments must be approved by at least 50% of the states. After this procedure the amendment is signed by the head of the state i.e; the President.

Bicameral Legislature: All federal states must have a bicameral legislature-Lower House representing the populace and Upper House representing the equality of states. Likewise, the Constitution of India also establishes a bicameral legislature consisting of the Lok Sabha and the Rajya Sabha is composed mainly of representatives of the state elected by the State Assemblies.

No double citizenship: Like the Canadian constitution, the Indian constitution does not introduce any double citizenship but one citizenship viz. the citizenship of India except J&K.

2.1.4 PURPOSE FOR FORMATION OF FEDERATION

It is for unity and not uniformity. It is to maintain unity in Diversity; the conditions of partition, necessity of having strategic or development objectives; size of the country i.e for large countries with diversity, federalism is preferred.

It is very natural for Indian constitution makers to go for federal form of government. It was the best way to meet the challenge of cultural and linguistic diversities present in the country. Besides size and diversity, strategic or economic factors were also responsible for adoption of federalism.

2.1.4.1 Historical Evolution of Federalism

The development of administrative institutions with a federal character in India start with the expansion of British rule after 1857, after the British Crown assented to take over the duties and treaty obligations of the East India Company and assumed direct responsibility for India's 'protected' states. In the context of British rule, the process of decentralization started after the revolt of 1857, before 1857, Britishers attempted at extremely centralized form of administration (Regulating Act of 1773).

After 1857, there emerged two types of political units i.e. British India and princely states. Princely states were under paramountcy of British Crown. With respect to British India, we have two type of provinces namely Governors province and Area under Chief Commissioners. Government of India Act, 1919 has introduced Diarchy in the country. It has relaxed central control over provinces by demarcating central and provincial subjects as well as budgets. Simon Commission recommended for establishment of federalism of British India and princely states. The recommendation took the shape of Government of India Act, 1935.

It provided for establishment of All India Federation consisting of British Indian provinces and princely states. It also introduced provincial autonomy and abolished diarchy at the level of provinces. Now, provinces emerged as autonomous units. It also established federal Public Service Commission and Provincial and Joint Public Service Commission. It introduced 3 lists i.e. Federal, Provincial and Concurrent list. The residuary power was vested in Viceroy.

Federalism with respect to princely states could not come into existence with respect to British India provinces. GOI Act, 1935 provided the basic source for modeling the Federation of Independent India, a highly centralized model of federation.

Cripps Proposal provided one Indian union comprising of all provinces and Indian states. However, the provinces and princely states who did not wish to join the Indian union were free to maintain their separate constitutional arrangement with the British.

Cabinet Mission proposed Indian federation comprising of British Indian provinces and Indian states. Union to have jurisdiction over the three subject only viz. defence, foreign affairs, communication. It also introduced two tier federation. The above exercises of British government to accommodate diversity of India were not successful and ultimately Britishers failed to stop partition. Mountbatten plan announced the partition of India. The objective of plan was to divide India but to retain maximum unity.

2.1.4.2 Context of the formation of Federalism in Indian Constitution

The immediate context was the communal violence in the context of partition; the Indo-Pak war of 1947; the enormous challenge of law and order in internal context; the issue of integrating princely states; developmental challenges. The above situations again shifted the opinion of constituent assembly in favour of centralized model, which can be called as centripetal model to counter centrifugal tendencies. This has resulted into vesting extraordinary powers in the hands of central government, the so called emergency powers. Under such situation, our constitution ceases to be federal and acquires unitary characteristic. Even during normal situation, central government exercises lot of power on state government.

Given our constituent proportions, diversity of races, languages, religions, our history, and our experience in nation building during the six decades after independence, India could not have acquired federal features. Unlike most other nations, we are not built around a single race or language or religion. Ours is perhaps a more pluralistic entity than any other nation on earth. In this complexity lie our challenge; and most definitely; our strength. A crucial committee of the Constituent Assembly- the Union Powers Committee-headed by Jawaharlal Nehru, went into the question of centralization and devolution. It deliberated the issues at length. Legislative lists were worked out at the sittings of this committee, assigning clear roles to the Centre, the Indian States and the

Provinces. Its report presented to the President of the Constituent Assembly on July 5, 1947 made the unanimous recommendation that while it would be injurious to the interest of the country to provide for a weak Central authority, it would be retrograde both politically and administratively to frame a Constitution on the basis of a Unitary State. The Union Power Committee said, “the soundest framework for our Constitution is a Federation with a strong Centre.” This approach has guided us over the last fifty years. We have had problems of balance-maintenance, politically, administratively, financially and in terms of the maintenance of national security. But by and large, the system has held.

2.1.5 INDIA AS A QUASI-FEDERAL

Quasi federal means federal in form but unitary in spirit. According to K.C. Wheare, Indian constitution is having prominent unitary feature and subsidiary federal features.

Indian federalism is called quasi-federal: Nowhere in the constitution term ‘Federal’ is used rather the term “Union” is used. However, it is conventional in all federations to use the term Union. Indian constitution does not guarantee territorial integrity to the states. The boundaries of the states can be altered by simple majority by Union parliament.

It is said that India is indestructible union of destructible states and USA is indestructible union of indestructible states.

Indian constitution does not give dual citizenship.

The distribution of legislative powers is heavily tilted in favour of union. Subjects are divided into 3 lists with Union- 97 subjects, state – 66 subjects, concurrent – 45 subjects. In concurrent list, union law prevails except for bill which is reserved for presidential order or assent of president. The residuary powers also lie with Centre. However, in case of other federation like USA, Australia, Germany, residuary power lies with the state.

In case of emergency situation, it acts as a unitary form of government and federal structure ceases to exist. Even during normal situations, union legislature has supremacy

over state legislature. Simply by passage of resolution in Rajya sabha by required majority, union gets power on state subjects.

All states are not at par. Some states have special power which creates inequality between states for e.g. J&K can have its separate constitution but others don't have. There are different types of administrative units with significant variation like states, Union territories, special status for UT of Delhi and Pudduchery, autonomous regions under 5th and 6th schedules.

The Institution of Governor: whereas in countries like USA, Australia governor is directly elected by the people. In Indian context, governor is appointed by the central government. Governor continues in the office during the pleasure of the President. Besides the above provisions, other provisions of Indian constitution which turns Indian federalism into unitary structure: Single citizenship; Integrated Judiciary; Integrated Machinery of elections, All India Services and Flexible procedure of Constitutional Amendments.

On the basis of above features of Indian constitution, scholars like K.C. Wheare suggest that India is not federal in spirit but quasi-federal.

However, it is not appropriate to call India as quasi-federal. Regarding India as quasi-federal show the ethnocentric approach of scholars like K.C. Wheare. For these scholars US federation is an ideal type. They tend to compare other federations with USA and those federations which have significant differences from US federation are termed as quasi-federal. According to Graiville Austin, Prof AlexandroWicz each federation is unique in itself. Each federation is shaped by its environment. Each federation is sue-generis case. Hence, it is not appropriate to compare and contrast the two federations i.e. USA and India and to conclude that India is quasi-federal.

The essential features of federation are written constitution, constitutional division of power among units of federation, independent Judiciary. From this point of view, Indian constitution posses essential features of federation. Indian federation is one of the most successful case of federal exercise in a developing country. With emergence

of coalition politics, new economic policies and judicial activism federal features have actually got significance. India has added third tier in its federation.

Supreme Court in S.R. Bommai case has held that 'federalism is basic structure of Indian constitution'. Ambedkar has also suggested that the basic constitutional design is federal. The term union is used to suggest that it is not product of agreement among states as happened in USA. The three features on which Indian federalism is based are integrated judiciary, all India Services and democracy.

The supporters of Indian federation believe that India represents the case of strong centre. It was necessary to contain the separatist tendencies. According to Paul Brass, Indian constitution emerged in a highly insecure environment. India was facing problems of communalism and separatism. Similarly, the reason for not granting the sanctity to the territorial integrity of the states is that states of that time were created by colonial administration according to their own convenience. They were not reflecting the aspirations of the people. It was expected that as soon as India will get independence demand for recognition of political map will emerge. This was necessary and hence we have adopted flexible procedure with respect to its political map of India is still unsettled. We see rise of demands for creation of new states like Vidharba, Budenlkhand etc.

India is federation; India possesses minimum features of federation. It emerges out of the needs of India. With the breakdown of congress system, rise of coalition politics, the federal features are becoming stronger. The case of India shows that federalism depends less on constitution provision and depends more on native of democratic politics and spirit of federalism.

2.1.6 INDIAN UNION : ETERNAL AND INDESTRUCTIBLE

India is described as 'Union of States by Article 1. The First Schedule to the Constitution specifies the States. Parliament may diminish the area of any State or change the boundaries, rename any State or admit any State. One of special aspects of the Indian Constitution is that the Union is indestructible but not so the States. The identity of the States can be changed or even obliterated. The Constituent Assembly rejected a

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motion in the concluding stages to designate India as a 'Federation of States'. Dr. Ambedkar, Chairman of the Drafting Committee, while introducing the Draft Constitution, explained the position thus:-

“.....that though India was to be a federation, the federation was not the result of an agreement by the States to join in a federation, and that the federation not being the result of an agreement, no State has the right to secede from it. The federation is a Union because it is indestructible. Though the people of the country may be divided into different States for convenience of administration, the country is one integral whole, its people a single people living under a single imperium derived from a single source”.

2.1.7 MAIN FEATURES OF CENTRE-STATE RELATIONS

A federal State derives its existence from the Constitution, just as a corporation derives its existence from the grant by which it is created. The federal system of Government refers to the **system of administration in which there is distribution of governmental powers between the Union and the States in terms of Constitutional provisions.** The Constitution in a federal State constitutes the supreme law of the land. **Prof. Wheare** says that the supreme constitution is essential if Government is to be federal; the written constitution is essential if federal Government is to work well. A federal constitution must also necessarily be a written constitution. A natural corollary of a written constitution is its rigidity. A constitution which is the supreme law of the land must also be rigid. The Indian Constitution provides for a new kind of federalism to meet India's peculiar needs. In the matter of distribution of powers, the Framers followed the pattern of the Government of India Act, 1935.

The current trends emphasize cooperation and coordination, rather demarcation of powers, between different levels of government. The basic theme is interdependence in orchestrating the balance between autonomy of the States and the inner logic of the Union.

The Union Legislature or Parliament has two houses, the Council of States (Rajya Sabha) and the House of the People (Lok Sabha). Unlike in most federations, representation in both is on the basis of population, through indirect election in the former and direct election in the latter. The Council of States has been given some special functions regarding matters effecting States, while the House of the People has been given some special role regarding financial matters. States have been given some flexibility about having bicameral or unicameral legislatures.

2.1.8 DISTRIBUTION OF POWERS

The distribution of powers is an essential feature of federalism. The basis of such distribution of powers is that in matters of national importance, in which a uniform policy is desirable in the interest of the units, authority is entrusted to the Union, and matters of local concern remain with the States. The distribution of powers is as follows:-

2.1.8.1 Legislative Relations (Articles 245 to 255)

The VII Schedule to the Constitution divides the subjects of legislation under three lists viz, Union, State and Concurrent Lists. Union List (List I) contains as many as 100 items and comprise of the subjects which affect the entire country and are of general interest and admit of uniform laws for the whole of the country. These matters lie within the exclusive legislative competence of the Union Parliament.

The State List (List II) enumerates 61 items and comprises of subjects of local or State interest and as such lie within the legislative competence of the State Legislatures.

The Concurrent List (List III) enumerates 52 items, with respect to which, both Union Parliament and the State Legislature have concurrent power of legislation.

The Concurrent List expressed and illustrates vividly the underlying process of nation building in the setting of our heterogeneity and diversity. This is a category of subjects of common interest which could not be allocated exclusively either to the States or the Union. Harmonious operation of the Concurrent List is very essential for the creative

federalism at its best. The problems that have attracted attention in the field of Union-State relations have less to do with the structure or the rationale of the Concurrent List than with the manner in which the Union has exercised its powers.

It has been highlighted by the Report of the National Commission to Review the Working of the Constitution that institutional arrangements for facilitating exchange of views between the States and the Union on matters falling within the field of concurrent legislation leave something to be desired. This has happened in spite of the existence of the Inter-State Council under article 263. There is, however, no formal institutional structure that requires mandatory consultation between the Union and the States in the area of legislation under the Concurrent List which covers several items of crucial importance to national economy and security. The Concurrent List provides a fine balance between the need for uniformity in the national laws and creating a simultaneous jurisdiction for the States to accommodate the diversities and peculiarities of different regions. This also provides a distinguishing feature in the federal scheme envisaged by the framers of the Constitution. It is very much essential to institutionalize the process of consultation between the Union and the States on legislation under the Concurrent List.

The Constitution confers power on the Union Parliament to make laws with respect to the matters enumerated in the State List under special state of affairs³². Besides, the Constitution vests power in the Union Government to control the exercise of legislative power by the State Legislature in certain matters³³. The residuary powers are vested in the Union Parliament.

2.1.8.2 Financial Relations (Articles 264 to 293)

The Indian Constitution incorporates a very convoluted scheme of Centre-State financial relations. There is a complete separation of taxing powers between the Centre and the States with a tax sharing between the two and the allocation of funds to the States. Without the authority of law, no tax can be levied. Division of financial powers and functions among different levels of the federal polity are asymmetrical, with a

pronounced bias for revenue taxing powers at the Union level while the States carry the responsibility for subjects that affect the day to day life of the people entailing larger expenditure that can be met from their own resources.

The residuary power of imposing tax, like the legislative power, is vested with the Centre. Another notable feature of the financial scheme is that it seeks to avoid the possibility of overlapping and multiple taxation.

On an average, the revenue of States from their own resources suffices only for about 50 to 60 percent of States' current expenditure. Foreseeing the insufficiency of the States' fiscal resources at the time of framing the Constitution, a mechanism in the shape of Finance Commission has been provided under article 280 for financial transfers from the Union. Its function is to eliminate financial inequalities between the two layers of Government and the States *inter se*, and to ensure orderly and judicious devolution that is deemed necessary from the point of view of avoiding vertical or horizontal imbalances.

The Finance Commission is one stream of transfer of resources from the Union to the States and advises the President over the aforesaid matters every five years and then there is Planning Commission, which advises the Union Government regarding the desirable transfer of resources to the States over and above those recommended by the Finance Commission. Bulk of the transfer of revenue and capital resources from the Union to the States is determined largely on the advice of these two Commissions. By and large, such transfers are formula-based. Then there are some discretionary transfers as well to meet the exigencies of specific situations in individual States. Imbalances have become endemic during the last two decades and have assumed alarming proportions recently. For this state of affairs, the constitutional provisions can hardly be blamed. Broadly, the causes have to be sought in the working of the political institutions. There are shortcomings in the transfer system. For example, the 'gap-filling' approach adopted by the Finance Commission and the soft budget constraints have provided perverse incentives.

2.1.8.3 Administrative Relations (Articles 256 to 263)

The Constitution embodies provisions for meeting all types of eventualities resulting from the working of the federal systems and also for protecting and maintaining peace and order in the country, to ensure smooth and proper functioning of the administrative machinery at the two levels.

The Scheme of allocating the administrative tasks is drawn for the purpose of:

- (i) the administration of laws;
- (ii) achieving co-ordination between the Centre and the States;
- (iii) the Settlement of disputes between the Centre and the States and between the States *Inter se*;
- (iv) for the purposes of Article 355.

The Constitution divides the executive power also like the distribution of legislative powers between the Union and the States. The executive power of both the Governments has been declared co-extensive, subject to few exceptions.

Article 73 says that the executive power of the Union shall extend to the matters with respect to which Parliament has power to make laws. It extends to the exercise of such rights, authority and jurisdiction as are exercisable by the Government of India by virtue of any treaty or agreement. However, with respect to concurrent matters, the Union shall exercise executive power only if (a) the constitution so expressly provides or (b) any law made by Parliament so confers the powers expressly on the Centre.

Article 162 lays down that the executive power of a State extends to the matters with respect to which the legislature of the State has power to make laws. In respect of concurrent matters, the States shall have the executive power only if the Constitution or a parliamentary law has not conferred such power expressly on the Union.

2.1.9 CENTRE-STATE CO-ORDINATION

The Constitution has adopted the following techniques of co-ordination between the Centre and the States—

- (a) Inter-governmental delegation of administrative powers [Article 258];
- (b) Centre's directions to the States [Articles 256 & 257];
- (c) All India Services [Article 312];
- (d) Inter-State Council [Article 263]⁴².

2.1.9.1 Dominance Of Union Legislative Power

The legislative power of the States must yield to that of the Union, where there is irreconcilable conflict of overlapping with respect to a matter as between the three Lists of the Seventh Schedule [Non-obstante clauses in Article 246(2)]. Article 254(1) says that where a law made by a State legislature is repugnant to any matter enumerated in the Concurrent List, it shall be void to the extent of repugnancy. If such a State law was kept for consideration of the President and it has received his assent, it shall remain operative [clause (2) of Article 254]. All the same, Parliament may modify or rescind such State law notwithstanding the President's concur.

2.1.9.2 Inter-Dependence and Mutual Co-Operation

Federalism is not a static model. It is a changing concept. The traditional theory of federation, which envisaged two parallel Governments of synchronize jurisdiction, operating in seclusion from each other in water-tight compartments, is nowhere a functional reality now. With the surfacing of the Social Welfare State, the conventional hypothesis of federalism completely lost its ground. By the middle of the twentieth century, federalism had come to be understood as a dynamic process of co-operation and mutual action between two or more levels of government, with increasing inter-dependence and Centrist trends. The framers of the Constitution has taken note of these and incorporated in the provisions of the Constitution.

Apart from the category of subjects of common interest i.e. Concurrent List, Several entries in the Union List are expressly intertwined with certain items in the State List. These entries have been so designated that Parliament may, by making a declaration by law of public interest or national importance, assume to the extent so declared, jurisdiction to legislate on the connected matters in the State List.

Examples of matters in this category are provided by entries 7, 23, 24, 27, 32, 52-56, 62-64, and 67 of the Union List. Such entries having an interface with the State List, in a way, disclose another field of ‘overlapping’ responsibility. Overlap as between the Lists may also occur when aspects of the same subject are put in more than one List. For example, different aspects of ‘Trade and commerce’ find mention in all the three Lists; namely, Entries 41 and 42 in List I, Entry 26 in List II and Entry 33 in List III. From certain matters, in List II a portion has been carved out and specially put in List I. Entries 13 and 32 of List II and Entries 22, 43, 44 and 91 of List I are instances of inter-linked matters cutting across inter-List Boundaries.

These criss-cross patterns of the Entries in the Lists include not only flexibility in the division of powers but also postulate co-operation between with Union and the States in the working. There are inbuilt techniques, *inter alia*, in Articles 246 and 254 for resolving conflict and ensuring harmony and co-operation between the Union and the States in the exercise of their Legislative powers in areas of overlapping jurisdiction.

2.1.9.3 Co-Ordination Forums

Article 263 of the Constitution provides forums for resolving issues and ensuring co-ordination of policy and action in the exercise of governmental functions by the Union and States. It enables the President to establish an inter-State Council for enquiring into and advising upon disputes between States and for investigating and discussing subjects and one or more of the States have common interest and to make recommendations upon any such subject, particularly for better co-ordination of policy and action with respect to such subjects.

Article 307 provides for appointment of an authority for carrying out the purposes in the area of inter-State trade and commerce. Article 262 further enables Parliament to provide for the adjudication of disputes relating to waters of inter- State rivers or river valleys. Inter-State River Water Disputes Act, 1956 provides for the constitution of Tribunals for adjudication of such disputes.

2.1.9. 4 Emergency Provisions

The Constitution provides for proclamation by the President of a grave emergency whereby the security of India is threatened by war or external aggression or armed rebellion (Article 352). When such a Proclamation is in operation, the Union may assume for its organs all the legislative and executive of the State. Consent of the State Government is not a condition precedent to such assumption (Article 353). A Proclamation of Emergency has the effect of converting the State List into Concurrent List; and therefore, if Parliament legislates on any subject in the State List, the State Laws, to the extent of repugnancy, shall be null and void and the Law made by the Parliament shall prevail. The executive powers of the State also become subject to the Direction of the Union as to the manner in which three powers are to be exercised.

Article 355 further is another important feature of the Constitution. It casts a duty on the Union to:

- protect every State against external aggression, and internal disturbance; and
- ensure that the government of every State is carried on in accordance with the provisions of the Constitution.

By virtue of Article 356, the President may by Proclamation assume to himself all or any of the functions of the State Government or all or any of the powers vested in or exercisable by the Governor or any authority in the State if he on receipt of a report from the Governor of State, or otherwise, is satisfied that a situation has arisen in which the government of the State cannot be carried on in accordance with the provisions of the Constitution. He may also declare that the powers of the Legislature

of the State shall be exercisable by or under the authority of Parliament. The purpose of Union intervention under this Article is to remedy a break-down of the Constitutional machinery in a State and to restore its functioning in accordance with the Constitution.

Article 360 of the Constitution provides for yet another type of emergency namely Financial Emergency. If the President is satisfied that situation has arisen where by the financial stability of India or any part of its territory is threatened, he may proclaim a Financial emergency. When such an emergency is in operation, the executive authority of the Union extends to the giving of directions to any State for the purpose of securing observance of canons of financial propriety.

2.1.10 FUNCTIONAL TRENDS IN CENTRE-STATE RELATIONS

The last 60 years of the working of Centre-State relations has witnessed continuous expansion of the responsibilities of national government. The extension of the role of the Union in the State field has come about as a result of the legislative and executive action of the Union.

The Union has through the exercise of its dominant legislative power taken over functions which normally were left to the States. Acts passed by the Parliament by virtue of Entries 52 and 54 of the Union List are typical examples. Centralized Planning through the Planning Commission is a conspicuous example of how, through an executive process, the role of the Union has extended into areas, such as agriculture, fisheries, soil and water conservation, minor irrigation, area development, rural reconstruction and housing etc. which lie within the exclusive State field. The Constitution envisages that fiscal resources would be transferred to the States on the recommendation of the Finance Commission. But, in, practice, the role of the Finance Commission has come to be limited to channelizing of revenue transfers (including a very small capital component) only. The capital resources (including a revenue component) for planned development, are now transferred on the recommendation of the Planning Commission.

2.1.10.1 Emerging Issues In Union And State Relations

Federalism is a dynamic concept. More than the constitution provisions, federalism is shaped by other factors like economic policy or the role of judiciary or the nature of party system etc. in Indian context, we see a major change in the functioning of Indian federal system since 1990's. the factors responsible for bringing these changes are the breakdown of congress system; the rise of regional parties; the rise of coalition politics at centre; judicial activism; presidential activism; new economic policy based on LPG; rise of new threats like terrorism or communal violence and passage of acts like RTI.

Over the Period of time, debates have been there about the basic structure of Constitution. Differing views are there. Some say it is sound and should not be tampered with. On the other side, there are some who are of the view that it requires drastic alteration so as to bring it in accord with their own perception of an ideal federal system.

There has been a perception that the Union has occupied most of the concurrent field leaving little to the states, and by indiscriminately making declarations of public interest or national importance, taken over excessive area of the linked entries in the State fields at the expense of the State legislative power. The institution of Governor has been alleged to have been made use of to destabilize the State Governments run by parties different from that in power in the Union, to facilitate imposition of the President's rule and reserve for President's consideration many Bills to thwart the State legislative process.

Over the years, legislative powers of centre have widened. State list has lost some items and union list as well as concurrent list has gained some items. Items shifted from state list to union and concurrent list. Since the emergencies of the coalition era, we don't see the shifting from state list to central list. This shows that states are becoming strong in Indian context. States have always oppose the dominance of centre in context of legislation. States also oppose the idea of reservation of bill for the consideration of President. In Indian context, this provision is taken from Canadian

constitution. In Canada, it has become obsolete. According to Sarkaria Commission, it should be used only when very necessary.

It has been complained that the resources of the States have not grown at a rate commensurate with the growth in their responsibilities. Another issue raised is that the emergence of planned development has concentrated all power in the hands of the Union, with the Planning Commission acting as a limb of the Union Government. The system of controls, licenses and permits which had its origin during the Second World War, has proliferated greatly to subserve the requirements of a planned regime.

It is urged that in matters of dispute between the Union Government and a State Government, the former should not be both the disputant and the Judge but should get the case examined by an independent assessor before taking a decision. The basic thrust of these and other criticisms is that while the union-State relations were intended to be worked on the basis of Co-operative federalism and consensus in all areas of common interest, they have not been so worked and the forums envisaged by the Constitution for that purpose have not been established.

As India constitutes an illuminating test for combining democracy with development and the idea and practice of a multinational State in an era of subnational conflicts and civil wars, the emphasis of the courts of law and the Government has been to keep a balancing approach towards the Centre-State relations, which is very much essential to have harmonious all-round development of the country and to have stiff resistance to external threats, if any.

India's political reforms are an important factor in transforming federalism. This transformation in India's party system developed from a single-party dominant to a multiparty system of governance that includes State (or regional parties). The trend in this transformation began in 1989 with V.P. Singh's Janta Dal coalition government. This trend has been followed in 1996(United Front Government), 1998 and 1999(BJP-led coalition) and now Congress-led coalition in 2004 and then again in 2009.

Regarding institutional restructuring of Centre-State ties in the light of Sarkaria Commission recommendations, it is reported that the authorities have considered 190 recommendations out of 247 and accepted 155 with or without modifications.

The numbers may sound big but they are trivia. On the crucial and most contentious issue of repeal of Article 356, the fiery federalists of yesterday who have turned into 'cooperative federalists' today and the much-mellowed State autonomists are at loggerheads among themselves.

Those groups that have advocated greater decentralization of India's federal system have paradoxically called for inter-governmental instruments of governance, whereas those who have advocated cooperative federalism have discounted the need for additional inter-governmental institutions. The viability of federal democracy in India may need to depend on the creation of a system of Centre-State relations that does not reinforce existing inter-governmental friction.

In the context of coalition politics and new economic policy, there is change in fiscal relationship between centre and states. The new economic policy guided by the principles of LPG has resulted into the federal restructuring in financial aspect. According to Rudolph and Rudolph, India has moved away from centralized command economy to federal market economy. One of the traits of economic liberalization in India has been the acceptance of the basic tenets of economic liberalization by most political sectors. One of the unforeseen consequences of economic liberalization has been its dramatic impact on Centre-State relations. As a result of the impact of economic reform, federal relations in India are gradually being transformed from inter-governmental cooperation between the Central government and the States towards inter-jurisdictional competition between the States.

In 1990's, state government emerged as a major player in economic arena. Under the requirements of structural adjustment programme, central government has started its rolling back from development related activities. Thus the responsibility was shifted on states. Now state government is dealing with foreign investors (prior consent of

centre is necessary). Over the years, the dependence of states on centre has been decreasing. This tendency can create interstate disputes rather than disputes between centre and states. States will be competing each other for attracting foreign investment.

In finance sphere, a new type of federalism is emerging known as “Sectoral federalism” by Lawrence Saez. It means power is shifting from the centre to regulatory authorities like SEBI, TRAI etc. This shows that the nature of control is changing.

MP Singh further visualizes that with the strengthening of the local self institutions in India. The federalism will be strengthened and will move beyond states to the grassroot level. There is demand for greater financial devolution. Some states have criticized that the new economic policy is favourable to the developed states like Maharashtra, Tamil Nadu, Karnataka, Gujarat, which are the hottest destination for investment.

Given the magnified leverage of regional parties in a multiparty system of governance, any Central government regulatory role will require the consent of the States. In a federal system that features growing inter-jurisdictional competition among the States, it is unlikely that States would acquiesce to regulations that may jeopardize a foreign investor’s decision to invest in a given State.

2.1.10.2 Contemporary Administrative issues between Centre and States:

- 1. National Investigation Agency (NIA):** NIA was created in the rising threat at terrorism related violence in the country. Certain states opposed the idea of creation of such agency as they feel it will destroy the federal balance. According to states, law and order is a state subject and we can achieve similar objectives by reforming police and other infrastructure. As per entry 9 of the Union list, the responsibility of the security of the country lies with the centre. It is also the duty of the centre to protect states against internal and external threats. States on their own will not be in a position to deal with issues like terrorism. Thus, the creation of NIA is not against the spirit of federalism. Centre also believes that other countries like USA has similar type of agency i.e. FBI.

- 2. Creation of Bundelkhand Development Authority:** recently there has been protest against the intentions of the centre to create new development board for backward areas, especially in the context of Bundelkhand. The representatives of States of UP and MP have protested the creation of any such authority. They believe that such an act would give blow to the federal nature of centre-state relations. Under Article 263 (2), centre can take initiative for coordination's between two states.
- 3. Gujrat's bill Against Organized crime:** Under Indian constitution, Governor has the power to reserve the bill for President's consideration. In this context, two controversies have emerged. The first is related to the bill of Gujarat government, which is directed against organized crimes like terrorism. Centre has sent the bill back with recommendations to amend the bill so that the provisions of the bill come in line with the policy of central government. This has created controversy because Centre is adopting differential policy with respect to the states. It is said that the provisions of GUJCOC is almost similar to MCOCCA. The MCOCCA got accent by the NDA government.
- 4. Recently on the request of Ministry of Minority Affairs,** central government is formulating a plan according to which states will be asked for information on preventive steps taken to ensure a communally sensitive district.
- 5. Strengthening of PRI's:** Recently Environmental Ministry has informed states that it would not approve any forest proposal till the consent of Gramsabha has not been sought. The purpose is to provide protection to the rights of the tribal and forest dwellers. According to political scholars, it can also create source of tension between centre and states because states always tend to see steps taken to strengthen PRI's as attempt by centre to by-pass states.
- 6. Mineral Policy:** Recently Minreal rich states like Chattisgarh, Orissa, Karnataka opposed the policy of UPA with respect to the minerals. States like Rajasthan and MP also opposed the mineral policy of the government,

which limits their rights in this context. According to states, the mineral policy is in favour of MNCs.

- 7. Special Preferences and concessions to States:** at times centre and states comes into conflict when states feel that centre is giving preference to some states. E.g. states like Punjab and Haryana opposed the move of centre to sanction special tax holiday for Himachal Pradesh to boost investment in the states.

All India Services: AIS are agency for facilitation of cooperative federalism and to maintain the link between centre and the states. However, states have opposed AIS because these services are a means of centre's intervention in the affairs of states.

2.1.11 EMERGING TRENDS IN INDIAN FEDERALISM:

Federalism in India is coming up of age, reflecting greater degree of maturity, adjustment and sustenance. Coalition Politics, emergence of powerful regional parties, court judgments, agencies and institutions of inter-State and Centre-State mechanism and globalization process accelerated the pace of decentralization and greater degree of Federalism. Among the emerging trends, probably most outstanding one is formation of and demands for new States. Emergence of ethnic problem, particularly in North-East and Kashmir, is a trend that has given enough headache. This has also led to development of new regional parties in the area that have tried to ventilate local ethnic grievances.

- Since independence there have been efforts to accommodate regional aspirations by organizing and reorganizing the States of India. However certain regions and linguo-cultural groups, who are territorially not dispersed, have been demanding separate statehood.
- The role of judiciary in Centre-State disputes has increased, which is an important emerging trend.

- Agencies and mechanism for Federal coordination like NDC, Planning Commission, Inter-State Council, Inter-State Commerce Commission and National Integration Council etc. are constituted by the centre as a mechanism to ensure cooperative federalism.
- Emergence of coalition politics is a marked feature in the functioning of Indian Federation. 1989 marked the beginning of coalition politics in the Centre. Many more elections have been held since then and in all past election scenario, formation of coalition government had become inevitable. Functioning of Federal system requires an independent judiciary that we have in our country. The role of Supreme Court as the guardian of the Constitution and Federalism is important.
- The States demand for partnership in Federal policy making processes and steps in making global contacts and contracts in regard to foreign investment is a remarkable change.
- India is faced with new challenges like cyber crime, terrorism etc which has transcended the boundaries of States and hence, logically, an emerging trend is Centre's greater role in law and order, through periodical intervention and legislations on this account.
- Greater 'Fiscal Federalism' is another emerging trend, which has been dealt with, including distribution of revenue between the Centre and the States and the parameters thereof and changes thereto from time to time. Local self-Government, happily, is getting empowered day by day.
- The emergence of Federal agencies and mechanism is another trend that has provided Federalism structural framework for smooth functioning. While, on one hand forces of globalization are at play, on the other there are forces of localism also. The Federal politics also has witnessed growth of multi-culturalism and pluralism, leading to the realization of twin Federal ideas of 'shared rule' and 'self rule'. Therefore it can be concluded that

Federalism has by and large coped with many forces that has come up and shown remarkable flexibility.

2.1.12 STRAINS IN INDIAN FEDERALISM

In any federal system, it is likely that there will be continued tension between federal government and the constituent polities over the years and that different balances between them will develop at different times; the existence of this tension is an integral part of federal relationship and its character does much to determine the future of federalism in each system. The very dynamism of the system with all its checks and balances brings in its wake problems and conflicts in the working of Union-State relations. Stresses, strains and irritations generated by such problems may stifle the working of the system and endanger the unity and integrity of the country. It is, therefore, necessary to review from time to time, in the light of the past experience, the evolution of Center-State arrangements not only for the purpose of identifying persistent problems and seeking their solutions, but also to attune the system to the changing times so that propelled by spirit of common endeavor and cooperative effort it takes the country ever forward towards the social welfare goals set out in the constitution.

The difference in the ideology of party in power at the centre and the party in power at the State level has been responsible for tension in the Centre- State relations. The negative role which some of the political parties have played has been responsible for strained relations as such communal mobilization of some party.

Central government did not release the funds and due share timely. So, implementing agencies are kept waiting for the receipt of funds. The major strains and tension areas in centre state relations are

1. Discriminatory role of Governor
2. Reservation of Bills for the consideration of the President
3. Demand for repealing certain laws

4. Dismissal of state governments under Article 356
5. Non-implementation of central laws and politics of coercion
6. Deployment of CRP
7. Use of All India Services by the centre
8. Discrimination against states in allocation of central projects; allocation of foodgrains; allocation of funds etc.
9. Appointment of Inquiry commissions and CBI inquiries
10. Demand for State Autonomy

2.1.13 LETS SUM UP

India is a country of immense diversities with social problems. The framers of Indian constitution believe that we required a federal constitution that would accommodate diversity, stem disintegration, bring about social and political change and the concern for unity and development. Centre state relations have changed in almost all spheres. This change has been the result of interaction of multiple factors. In this situation, states are emerging strong and the trend is that Indian polity is becoming quasi confederal from quasi federal as pointed by Douglass Vernay.

M.A. Political Science, Semester I
Course Title: **Indian Political System**
Unit – II: **Structures of Governance**

2.2 DEMOCRATIC DECENTRALIZATION: 73RD AND 74TH CONSTITUTIONAL AMENDMENT, NATURE AND IMPACT

- Pankaj Kumar Sharma

STRUCTURE

2.2.0 Objectives

2.2.1 Introduction

2.2.2 History Decentralisation in India

2.2.3 The Seventy-third Amendment Act

2.2.3.1 Features of the Constitutional Amendment Act

2.2.3.2 Powers and Functions of Panchayats

2.2.4 Working of Grass Root Democracy after 73rd and 74th Constitutional Amendment in States

2.2.5 The 74th Constitutional Amendment

2.2.5.1 The Features of 74th Amendment

2.2.6 Critical Evaluation

2.2.7 Limitation and Problems

2.2.7.1 Problems of the Third Tier of Governance:

2.2.8 Lets Sum Up

2.2.0 OBJECTIVES

After going through this unit, the student should be able to:

- understand the concept of decentralized democracy
- understand the features of 73rd and 74th constitutional amendment;
- Outlines the functioning of decentralized democracy after 73rd and 74th constitutional amendment

2.2.1 INTRODUCTION

Democratic decentralization is the key indicator of the strength of civil society as well as a vital opportunity for participation in governance and decision making. The Panchayati Raj in India is a decentralised form of government wherein each village is responsible for its own affairs. It presupposes democratic decentralisation to the district level and below. These institutions have assumed significance with the unfolding of the seventy-third and seventy fourth constitutional amendment, the importance of which cannot be measured in terms of its immediate results. Its real significance lies in the sequence of actions and events to which it has given birth.

2.2.2 HISTORY DECENTRALISATION IN INDIA

Towards the end of the nineteenth century, British rulers like Lord Ripon urged the revival of local government. A resolution was drafted in 1882 for the establishment of resolution of local boards which was repeated in 1909 in the report of the Royal Commission on Decentralisation. As a result, rural district boards and village panchayats

were set up. These ad hoc initiatives, however, died without achieving much success. But, the Montague-Chelmsford reform (1919) brought local self-government as a provincial transferred subject, under the domain of Indian ministers in the provinces. However, the most significant development of this period was the establishment of village panchayats in a number of provinces that were no longer mere ad hoc judicial tribunal, but representative institutions symbolizing the corporate character of the village and having a wide jurisdiction in respect of civic matters. The Britishers were not concerned with decentralised democracy but only with fashioning an administration that met their colonial objectives.

As Gandhi often pointed out, India lives in villages and unless village life can be revitalized the nation as a whole can hardly come alive. When India became independent in 1947, perhaps one-third of the villages of India had traditional Panchayats and many of them were far from flourishing conditions. Panchayati Raj was a pious dream of our great leader Mahatma Gandhi who wanted to strengthen the democracy at the grassroots level by this system. His slogan of “Gram Swaraj” was most remarkable and accepted by all Indians.

Article 40 of the Constitution of India provides that the state shall take steps to organise village panchayats and endow them with such powers and authority to enable them to function as units of local self government.

As a first step in direction of Panchayat Raj, composite basic development was entrusted to the rural bodies by introduction of Community Development Programmes. This step gave rise to a network of panchayats spread almost all over the country. However, it could not help its evolution because of its functioning on the directions from the top. Then in 1956, an official committee was set up by the government of India to examine the problems related to implementation of Panchayati Raj. It was only in 1959, that the Panchayati Raj System (PRS) came into existence in a formal way after the study team headed by Balwant Rai Mehta expressed concern about the lack of popular participation in the Community Development Programme (CDP) and

made a strong plea for the devolution of power to the lower levels through Panchayati Raj. Therefore, BalwanRaj Mehta committee recommended in its report the introduction of three-tier system for self-government at the grassroots levels and transfer of more responsibility and power to these bodies. Hence, the recommendation of the Mehta Committee led to inauguration of the Panchayati Raj at Nagaur in Rajasthan on October 2, 1959.

However, it generated enthusiasm among many states for decentralisation did not last long. During late 1970s and in early 1980s various committees were constituted to suggest measures that could be taken to revive the PRIs in India. The G.V.K. Rao Committee commissioned in 1985 to look into administrative arrangement for rural development suggested devolution of powers and authority to the village panchayats. In 1986, the L.M. Singhvi Committee pleaded for the constitutional recognition of, apart from attaching great importance to, the Gram Sabha. The Sarkaria Commission on Centre-State relations also recommended strengthening of panchayats financially and functionally.

Realizing the potential of the PR system, Rajeev Gandhi government initiated a process of Constitutional amendment to give sanctity and uniformity to Panchayati Raj system so that it can be immune from political interference and bureaucratic indifference. Rajeev Gandhi introduced 64th Constitutional amendment Bill in 1989. But the Bill did not materialize because of the fall of his Ministry. Finally the P.V.Narasimha Rao government introduced Panchayati Raj system in India through the 73rd Constitutional Amendment in 1992.

2.2.3 THE SEVENTY-THIRD AMENDMENT ACT

The 73rd Amendment Act of decentralized governance came into force on 24 April, 1993. There are some radical features in the Act. They try to address some of the problems encountered by PRIs, such as granting PRIs constitutional status, empowering socially and economically disadvantaged groups i.e., Dalits, Adivasis, and women, ensuring free, fair, and regular elections, keeping terms fixed, identifying a list of

items which would come under the jurisdiction of PRIs and addressing the issue of PRI finance. The constitution, which describes them as institutions of local self-government, says that the Amendment was carried out for two specific purposes: planning for economic development and social justice and implementing these plans.

2.2.3.1 Features of the Constitutional Amendment Act

The main features are as follows:

Firstly, the centrality of the **Gram Sabha**, as a deliberative and deciding body, to decentralised governance.

Secondly, **uniform three-tier PRIs structures across the country**, with the village, block, and district as the appropriate levels. States with populations of less than twenty lakhs have an option not to introduce the intermediate level.

Thirdly, **direct election** to all seats for all members at all levels. In addition, the chairpersons of the village panchayats may be made members of the panchayats at the intermediate level and chairpersons of panchayats at the intermediate level may be members at the district level. The election in respect of the post of the Chairman at the intermediate and district level will be indirect. The mode of election of Chairman to the village level has been left to the State Government to decide. All members including the chairperson shall have the right to vote. MPs, MLAs, and MLCs may also be members of panchayats at the intermediate and the district levels.

Fourthly, in all the panchayats **seats are to be reserved for SCs and STs** in proportion to their population and one third of the total seats to be reserved for women. One third of the seats reserved for SCs and STs will also be reserved for women.

Fifthly, offices of the chairpersons of the panchayats at all levels will be reserved in favour of SCs and STs in proportion to their population in the state. One-third office of chairpersons of panchayats at all levels will also be reserved for women.

Sixthly, the legislature of the state is at liberty to provide reservation of seats and offices of chairpersons in panchayats in favour of backward class of citizens.

Seventhly, average panchayat will have a **uniform five-year term** and elections to constitute new bodies will be completed before the expiry of the term. In the event of dissolution elections will be compulsorily held within six months. The reconstituted panchayat will serve for the remaining period of the five-year term.

Eighthly, it will not be possible to dissolve the existing panchayats by amendment of any act before the expiry of its duration.

Ninthly, a person who is disqualified under any law for elections to the legislature of the state or under any law of the state will not be entitled to become a member of a panchayat.

Tenthly, an **independent State Election Commission** to be established for the conduct of all elections to the panchayats consisting of a State Election Commissioner to be appointed by the State Government. It shall also be in charge of superintendence, direction, and control of the electoral process and preparation of electoral rolls.

Eleventh, devolution of powers and responsibilities by the state in the preparation and implementation and development plans.

Lastly, the setting up of a **State Finance Commission** once in five years to revise the financial position of these PRIs and to make suitable recommendations to the state on the distribution of funds among panchayats.

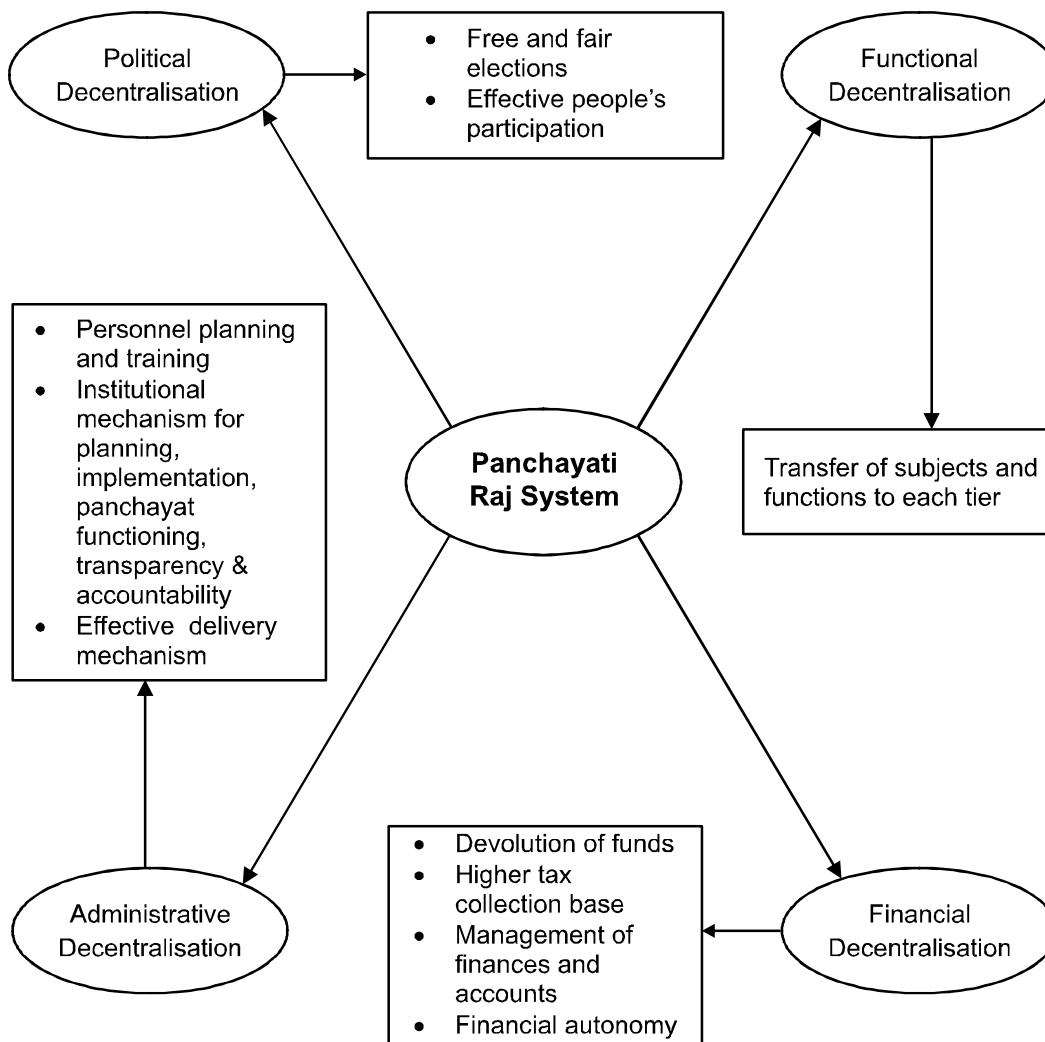
2.2.3.2 Powers and Functions of Panchayats

Subject to the provisions of this Constitution, the Legislature of a State may, endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats at the appropriate level, subject to such conditions as may be specified therein, with respect to: the

preparation of plans for economic development and social justice; the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule. The matters listed in 11th Schedule are as follows:

1. Agriculture and extension
2. Land improvement
3. Watershed development
4. Animal husbandry, Poultry and Dairy
5. Fisheries, Social forestry and small scale industries
6. Rural Housing, Khadi, Drinking water and Sanitation
7. Community Health etc

According to the provisions of the new Act, 29 items have been given to the Panchayats. But it has been noted that very few of these subjects have been transferred to the Panchayats and are neither substantial nor meaningful. They are only supervisory in nature.



Flowchart: Requisite Components of Panchayati Raj System.

2.2.4 WORKING OF GRASS ROOT DEMOCRACY AFTER 73RD AND 74TH CONSTITUTIONAL AMENDMENT IN STATES

After the 73rd Constitutional Amendment Act all states in India initiated the process of radical democratic decentralization. However the experience of PRIs shows that success of PRIs in India is not uniform throughout the country. In some states the system has played a vital role in changing traditional power structure dominated by

local elite bureaucratic network. In other states the new system has led to empowerment of hitherto marginalized sections of society like women, SC and ST. Unfortunately in some other states lack of political will and administrative apathy killed the real devolution of power. Using the conventional classification of 'political, administrative and fiscal decentralization,' the World Bank's three-volume study of Indian decentralization ranks India '**among the best performers**' internationally in terms of political decentralization, but 'close to the last' in terms of administrative decentralization. Most States have held at least one round of elections since 1993. Reservations allowing the participation of women, Scheduled Castes and Scheduled Tribes have been respected. Finally, voter participation has been high. In its study of 53 villages in Rajasthan and MP, for instance, the World Bank found that voter turnout in *Panchayat* elections was well over 90% for all categories (defined in terms of gender, class and caste). This is significantly higher than the (still high) turnout for the most recent (1998) round of *Lok Sabha* elections, which was 61% for women and 65.9% for men. In its assessment of Indian decentralization, the Task Force on Devolution of Powers and Functions upon *Panchayati Raj* Institutions (MoRD, 2001) found that 'most of the States' had satisfied only the basic requirements relating to the transfer of functions, functionaries, funds and financial autonomy to the *Panchayats*.

However some states are ahead of other states in implementing PRIs. For example, Kerala has set a model for decentralized planning with people's participation and an innovative model for allocating fund for PRIs. In Kerala, the local self-governments belonging to higher tiers do not have any control over the lower tiers. The Panchayat presidents are very clear about their role in providing services, and developing panchayat plans and implementing them. The Panchayat presidents take an active interest in the proper running of day care centers, primary schools, and health subcentres. They actively look into the maintenance of buildings housing these institutions, regular attendance of the staff, and other infrastructure needs. In Kerala PRIs has initiated the process of participatory natural resource management, water shed management and adult literacy programmes. In some districts IT local Panchayat

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authorities also introduced training programmes. Participation of women and marginalized community in development process has led to their empowerment to a great extent. However Kerala is also not free from elite capture of political power in grass root level. Over politicization and interference of local political party leaders often affected the functioning of PRIs making it less –objective and more partisan.

Another state, which has shown initial activism in PRI, is Madhya Pradesh. Even before the amendment Madhya Pradesh had a long tradition of local self- governments. So when the Act was implemented, Madhya Pradesh has used the district planning committee provision of the 73rd amendment and pass decision-making powers to districts. It has also empowered the gram sabha to carry out the functions of Gram Panchayat through numerous committees under the gram swaraj. Madhya Pradesh PRI system is characterized by committee system at the local level managed by members of Gramsabha and other higher levels. However, this system is not functioning due to lack of awareness among the members and bureaucratic indifference to provide technical guidance to the representatives on powers assigned to them. Thus the PRI representatives underutilized the powers and functions delegated to the committees.

The elite capture is much stronger in Tami Nadu where Dalit Panchayat members were not even allowed to contest in election. When the hitherto downtrodden people try to establish themselves, assert their opinion and to question the established patrons of authority through constitutional means, traditional caste forces reacted vehemently to revert the natural process of empowerment. This trend was most evident in Tamil Nadu where patriarchal norms and caste equations play vital role in politics. Naturally this has resulted in the creation of several stumbling blocks in Dalit women's assertion, mobilization and empowerment. Thus the chief factor hindering proper functioning of dalit PRIs in Tamil Nadu is strong opposition from upper caste representatives and caste groups. In several panchayats non-cooperation from upper caste members have virtually halted the day-to-day activities of gramsabhas and gram panchayats. In Pappapatti and Keerippatti panchayats, Dalit Panchayat presidents resigned soon after their election when they failed to challenge the casteist forces.

2.2.5 THE 74TH CONSTITUTIONAL AMENDMENT

From the very beginning, since independence, the urban local government received a step- motherly treatment from those who stood for the cause of self-government at the grassroots level in India. Like the 73rd amendment, the 74th amendment also lays down the structure of urban local bodies; provides for their regular, free and fair elections; makes provision for reservation of seats for SC, ST and OBCs; fixes their term to five years; protects them against arbitrary dissolution, specifies their powers and responsibilities; and attempts to strengthen the fiscal base of the urban local bodies. It does two more things, which are not to be found in the 73rd amendment; that is that, besides elected, it also provides for nominated members for decentralised planning.

The Constitution (74th Amendment) was passed which came into force on 1st June 1993. Two important Committees, namely (1) Committee for District Planning (Article 243ZD, (DPC) and Committee for Metropolitan Planning (Article 243 ZE, (MPC) have been constituted.

2.2.5.1 The Features of 74th Amendment

The major features of 74th Constitutional Amendment are discussed below:

- 1) Constitutional status has been accorded to Urban Local Government bodies. Three- tier structure has been envisaged, whereby there would be municipal corporations, for larger areas, municipal councils for smaller areas, and nagar panchayats for villages in transition to becoming towns. Since, “Local Government” is a state subject, the state legislatures have been left within their powers to define the details of the powers and functions of different units of urban government institutions whose broad outline only has been drawn by the Parliament.
- 2) Direct election to these Municipal bodies by the people in the manner as the elections are held for the Lok Sabha and State Assemblies has been provided. For the purpose of elections, the Municipal elections are to be conducted by the State Election Commission.

- 3) Reservation of one-third of seats for women including women belonging to Scheduled Castes and Scheduled Tribes is ensured.
- 4) The State Finance Commission would ensure financial viability of the Municipalities. Municipal funds have been augmented through taxes, tolls, duties and fees, grants-in-aid.
- 5) Urban municipal institutions of self-government have been endowed with power and authority to formulate and implement schemes for economic development and social justice on 18 subjects.
- 6) Developmental Committees, namely, (DPC) and Metropolitan Planning Committees have been constituted. Thus, planning in India has been decentralised up to the grass-roots level.
- 7) For better proximity with citizens, wards committees have been constituted.
- 8) The 74th CAA and also the 73rd CAA (on Panchayats) have created local self government institutions through out rural and urban India with powers (29 for rural and 18 for urban) delineated, devolution, deliberative and executive wings of government created, authority and responsibilities defined, developmental committees (DPC, MPC) and Finance Commission constituted; and within each Municipality, Wards Committees and Zonal Committees have been constituted.

2.2.6 CRITICAL EVALUATION

Grass root democracy would seem to have been established in India through 73rd amendment of the constitution. But even the Act has not resolved the problem of clearly defining the role of local bureaucracy and the elected representatives. Unfortunately the Act has not even defined the role of political parties. A critical review of the 73rd Amendment and the assessment of the ways in which different States have followed or resisted the stipulations outlined in the 1993 reforms reveals that the grass root democracy in India still suffers from three limitations- federal constraints, a resistant

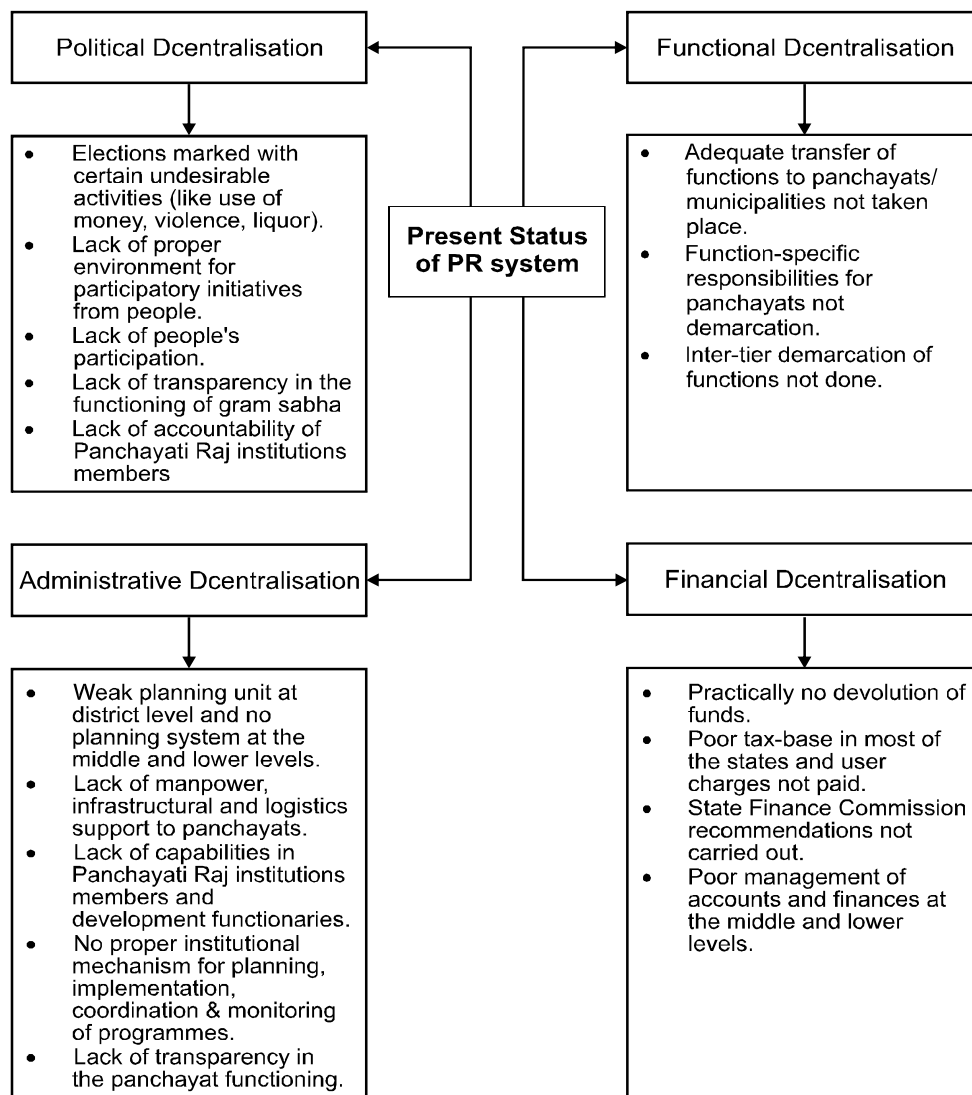
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bureaucracy and local elite capture.

Panchayati Raj was indeed one of the most remarkable social and political reforms since independence. However, PRIs today face a number of daunting challenges. Across all states there is a lack of genuine devolution of funds, functions and functionaries in Panchayati Raj. Added to that are social challenges that work against the emergence of leadership from marginalized sections of society, such as women, Dalits and tribals. Further, there is a lack of role clarity among Gram Panchayats, Block Panchayats and District Panchayats.

The socio-political changes expected by the introduction of Panchayati Raj system remained largely unfulfilled for long. Particularly the objectives like social equality, gender equity and the change at grass-root level leadership envisaged as the main among the objectives of Panchayati Raj were not fulfilled in a meaningful manner. In this regard it was felt that the marginalized groups like the women and other backward castes in the society continue to face many hurdles and found it difficult to participate at the grass-root level developmental process. Some of the shortcomings of the system identified by various studies are as follows:

1. Uniformity of PR system undermines each state's unique history, traditions and consequent structures of local government
2. Representation of members of parliament and state legislatures are often became counter-productive. There are clash of interest between the legislatures and PR representatives particularly for getting votes.
3. The Act does not define role of political parties clearly. It doesn't mention that political parties can enter the election arena in their formal capacity.
4. The Act is silent about the relationship between PRIs and local bureaucracy
5. The Act doesn't spell out specific grounds for dissolution of PRIs by states. This gives scope for the states to dissolve PRIs on political considerations.



Flowchart : Problems in the present form of Panchayati Raj System

2.2.7 LIMITATION AND PROBLEMS

1. Reluctance on part of political elites to encourage Panchayati Raj Institutions.
Except for Kerala, Bengal, Tripura and Bihar, all other conform acts deal in panchayat as administration organ.

2. Procedural bye laws have not been passed to make them functional in spirit. There is nothing in legislation like time frame, resources to be given. **Centralizing tendency is still persisting. Judicial and law & order decentralization has not taken place.**
3. WB elections showed **electoral violence** at panchayat level.
4. No commensurate social and economic equality. Any attempt at assertion of their rights by middle class and lower classes is confronted with conflict. Mere reservation has not solved this problem.

Criminal-politician nexus becomes more pronounced at Panchayati Raj level.

Social and economic equality is not being created. Education has not spread enough. Officials remain largely uncooperative, when officials are given to work under Panchayati Raj Institution, they go for stay orders in courts. Recent studies, which are survey of Panchayats working in 19 states conducted by **National institute of Rural development, Hyderabad in 2002**. Panchayats largely remain toothless, in spite of the fact that they are constitutional mandated bodies. Reasons:

1. Lack of national consensus across party lines on what should be the status and role of Panchayati Raj Institutions. Political initiatives and Will is lacking. Only in those pockets, where there has been thrust from below, they can function.
2. Political elites at national and state level are unwilling to give up control over financial and developmental schemes.
3. Bureaucratic control over Panchayati Raj Institutions continues.
4. Functional and financial autonomy has not been granted to Panchayati Raj Institutions. Except in Kerala and WB Panchayati Raj Institutions are seen as low level agencies of government rather than units of self government.

5. Generally state delay or avoid transferring technical staff.

So, Panchayati Raj Institutions implement country and state level. Gram Sabha has not been given clear identity, functions are not defined. State governments do not give technical staff to Panchayati Raj Institutions. Thus, higher level elites are sabotaging the Panchayati Raj Institutions.

2.2.7.1 Problems of the Third Tier of Governance:

1. The constitutional amendment had rightly defined the panchayats as an institution of self government, but later in defining the functions of this institution, it had narrowed them down to development functions. States have accepted the letter of the 73rd and 74th Amendments rather than their spirit. In many States Acts, **civil servants** are given powers indirectly over the elected body. Transfer of activities and functions to panchayats is taking place very slowly. Only in places where strong demands from below-the Village Assembly, Village Panchayats and District Panchayats as well as enlightened citizens' organisation come up, attempts to devolve powers are taking place.
2. Another problem is that although States have enacted **Conformity Acts**, many States have not formulated rules and bye-laws for the day to day functioning. The necessary infrastructural facilities are lacking for panchayats in many states.
3. The reluctance of **State-level politicians** to recognize the importance of the governance-their autonomy, their powers and their areas of functioning-is creating a serious problem. In Orissa, when the new government came to power in early 1995 it decided to dissolve the duly elected panchayats and municipalities. The real reason for this action was that the MLAs were impatient to wrest full control of large sums of money coming to the panchayats through the Central Government schemes for rural development.
4. Lack of Political will to implement Panchayati Raj in its true spirit by granting autonomy and more powers as enumerated in the 11th and 12th schedule.

Politicians wouldn't like to see the erosion of their power by breed of new local leadership. Therefore, M.Ps and MLAs have not been too friendly to these institutions. **Nirmal Mukherjee**, raises the question whether constitutional provisions are adequate substitute for lack of political will.

5. The government officials and government employees prefer to work with a distant control mechanism i.e. the State Capital. They do not want to be closely **supervised** under Panchayati Raj. Therefore, their non-cooperative attitude towards elected panchayat members is a major issues.
6. The low level of **political consciousness** in many parts of the country is another factor which will pull the new Panchayati Raj backwards. The States of Bihar, MP, Rajasthan, UP and Orissa, with a population of about 370 million (1991 census), have a low Panchayati Raj performance rating. The main reason is the low level of political awareness, prevalence of feudal authority and feudal values.
7. In many places, the panchayats themselves are working as **oppressive instruments**. Absence of land reforms, low level of literacy, especially among women, patriarchal system, etc. will work against weaker sections in the villages.
8. **Elections are not being held on regular basis**. There is postponing of elections frequently or not holding them at all. The terms of existing panchayat bodies have been extended or superseded.
9. **Serious conflicts and violence** have taken place during elections and afterwards in their functioning in the villages. The recently held panchayat elections in Orissa and widespread violence resulting in loss of life. Elections had created group rivalries. This vitiated the atmosphere of village and hindered the smooth functioning of the system. Elections of panchayats in some states are held on party lines which results in casteism and political enmity.

- 10.** The central government itself creates situations which are not conducive for the growth of panchayats. Any programmes, any scheme, any organization created parallel to the functioning of the panchayats, will undermine the local government system. The serious offensive against the emerging local governance is the disbursal of Rs. 800 crores out of the Consolidated Fund of India at the rate of Rs. 1 crore per MP, popularly known as MPs' Constituency Development Scheme. Now, it is 2 crores.
- 11. Inadequate financial resources of the panchayats and their inability to generate their own revenue.** It is due to absence of devolution of adequate powers and fiscal autonomy to PRIs. Panchayats on their own couldn't take up any programme of rural development. For this purpose, they are entirely dependent upon central and state government's funds.
- 12. Corruption and Nepotism:** Indian bureaucracy is notorious. It never works without greening its palm. The overwhelming part of our development money goes to the purse of bureaucracy and the same applies to our leadership also. In such a situation, what will be the fate of development in villages of India is anybody's guess. As per **George Mathew**, there is nexus between contractors, bureaucrats and politicians which is affecting functioning of PRIs.

2.2.8 LETS SUM UP

The grass root democratic institutions have been in operation in almost all states in India for nearly five decades, but with a number of variants in their structure concerning decision making, implementation, resource allocation, staffing patterns, training and recruitment of staff and the degree of autonomy allowed at different levels. These institutions could help to ensure judicious spending of funds and creating dependable and useful public service infrastructure. These bodies address the basic necessities of the masses at the grassroots level where the state government has failed to reach and fulfil their demands. It would also fill the governance deficit provided the Panchayat bodies are fully empowered to take decisions which are bestowed to them and without

political interference. This will enable these institutions to bring the masses at the helm of affairs and in decision making.

Though the PRI system has so many positive features, yet the elite control over the system, apprehensions of state level leaders of challenge to their power and the lukewarm attitude of the bureaucracy have not yet allowed the PRIs to function as real democratic institutions with people's participation. Studies from different states in India clearly proves that even though some states have shown political activism to implement PRIs the unequal social structure and rigid caste system prevalent in Indian villages coupled with power-hungry local bureaucracy kill the spirit of the system.

However, the grass root democratic institutions have not yet become the real institutions of self-governance at the grassroots level mainly due to the repugnance of higher level bureaucrats and politicians to share power with them and lack of capacity of these institutions in performing their envisaged functions and duties. The panchayats under the state Act are the institutions that lack autonomy. The state ended up in creating panchayat bodies without decentralising the administrative and financial powers to such bodies. Panchayats can fulfil their responsibility as institutions of self government only if devolution is patterned on a nexus between the three Fs - functions, functionaries and finances. Whether it is municipal bodies or panchayats bodies, they have failed to perform to the extent expected because neither they have the requisite powers to perform, nor the adequate funds to start or monitor community development works. It is not just the delay in holding elections to these bodies, but the future of decentralised governance itself is at stake. Holding elections to PRIs is no doubt important, but the more important issue is that of making them effective instruments of change and development, towards building a strong and vibrant civil society.

The ethos of democracy can find real nourishment only when power reaches the grassroots level. For the ordinary citizen, it is local democracy, which can have real meaning and significance. In a vast country where large masses are still unlettered,

village panchayats and participative democracy can do wonders. If the aim is to establish a democratic society, where change is brought about by voluntary consent and willing cooperation and not by the force of arms, there may be no alternative to Panchayati Raj or Local Self Government Institutions. In that sense, the most revolutionary measures in recent decades have been the 73rd and 74th Constitutional Amendments. It is hoping that with this Indian democracy could become a unique model for the rest of the world.

M.A. Political Science, Semester I
Course Title: Indian Political System
Unit – II: Structures of Governance

2.2 PARLIAMENT : CHANGING NATURE OF REPRESENTATION

- Dr. Mamta Sharma

STRUCTURE

- 2.3.0 Objectives**
- 2.3.1 Introduction**
- 2.3.2 Composition of Indian Parliament**
- 2.3.3 Parliamentary Origins**
- 2.3.4 Parliamentary Structures**
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- 2.3.6 Challenges faced by the Parliament**
- 2.3.7 Way Forward**
- 2.3.8 Letus Sum Up**

2.3.1 INTRODUCTION

Representative democracy and parliamentary institutions have endured in India for more than seven decades is a great tribute to their strength and resilience. There has, however been in recent years quite some thinking and debate about decline of Parliament, devaluation of parliamentary authority, falling standards of debate, deterioration in the conduct and quality of Members, poor levels of participation etc. A certain cynicism towards parliamentary institutions and an erosion in the respect for normal parliamentary processes and the parliamentarians present a disturbing scenario. Very little effort, seems to have been made to examine and analyse what really plagues Parliament or to find out the reasons for the erosion of the traditional authority, high esteem and pristine glory of the institution of Parliament. During the last nearly 60 years, the structure and functions of Parliament had developed under the shadow of the Fabian slogans of democratic socialism, economic democracy and distributive justice. The information explosion, the technological revolution, the growing magnitude and complexities of modern administration and the concept of Welfare State cast upon Parliament vastly extended responsibilities of social engineering through legislation and of managing the lives of citizen from the bedrooms to the cremation or burial grounds. Inadequacy of time, information and expertise with Parliament resulted in poor quality legislation and unsatisfactory parliamentary surveillance over administration. As B.K. Nehru once said, during the entire period of nearly 200 years of their rule in India, the British passed only some 400 laws while in the first 40 years, Parliament had passed nearly 4000. The big difference was that the 400 laws were obeyed or had to be obeyed while the 4000 pieces of legislation were not obeyed. Those to whom many of these laws relate did not even know or understand them. Little effort has been made to develop the essential prerequisites for the success of parliamentary polity - discipline, character, high sense of public morality, ideologically oriented two party system and willingness to here and accommodates minority views. In a situation where the government lacked comfortable majority of its own and the opposition was too weak to emerge

as an alternative, the options were very limited and the Parliament was bound to remain less effective. This is what happened during the 1989-1999 decade. Members irrespective of their party affiliations had themselves become a new caste and parts of the establishment and co-sharers in the spoils. Politics and Membership of Parliament had emerged as a whole-time, highly lucrative, hereditary profession. Following the changed composition of the successive House, there was faster devaluation of all the old values and increase in disorders and pandemonia on the floor during the so called “Zero Hour” and at other times. There was general apathy among Members, Ministers and public at large towards the work of Parliament. Absenteeism among Members had assumed alarming proportions and defections for money and office were a common phenomenon.

● **Composition of Indian Parliament**

The lesson will focus on the formal institutions of Parliament, predominantly at the national level. It will examine the changing socio economic and cultural backgrounds of the representatives who sit in the legislatures, and examines how and in what ways they ‘mirror’ India’s highly pluralistic social order. It will examine not just the procedures through which Parliament seeks to check executive powers and influence policy, but will also seek to evaluate its effectiveness in translating representation into policy. The lesson will also assess the interaction between the differing levels of the parliamentary system in as much as the Indian constitution privileges the union government to act in the face of political breakdown in the states, as well as the relationship between parliamentary representation, and the wider electoral and party system itself. The institutions of parliamentary government are an established element in political culture, structuring the forms and idioms of social and cultural activity, that profoundly influencing the nature of extra parliamentary protest. The parliament is part of wider political process.

The dynamics of parliamentary representation have thus played a crucial role in structuring the emergence of new types of political identities and responding to the rise of broader social interests, thus ensuring Parliament’s long term legitimacy. In

the year of 1990 the most dramatic changes in the composition of Members of Parliament in the Lok Sabha since independence, with an increase in the so called 'Other Backward Classes' returning MPs from number of parties. Moreover, social categories that identify elites and non elites continue to fragment, complicating debates in representation and how to ensure its effectiveness. Together with an increasing presence of the OBCs, Parliament has also during this period, fiercely debated the issue of gender based quotas for parliamentary seats. The 1990s also saw Parliament accommodate coalition politics, with many different state based parties becoming prominent in the legislative debates and processes. Furthermore, the issues of corruption and increasing intra institutional competition from such agencies Supreme Court and the lower judiciary have added to concerns over a felt democratic deficit in India.

2.3.2 COMPOSITION OF RAJYA SABHA

The maximum strength of the Rajya Sabha is fixed at 250, out of which, 238 are to be the representatives of the states and union territories (elected indirectly) and 12 are nominated by the president. At present, the Rajya Sabha has 245 members. Of these, 229 members represent the states, 4 members represent the union territories and 12 members are nominated by the president. The Fourth Schedule of the Constitution deals with the allocation of seats in the Rajya Sabha to the states and union territories

1. Representation of States

The representatives of states in the Rajya Sabha are elected by the elected members of state legislative assemblies. The election is held in accordance with the system of proportional representation by means of the single transferable vote. The seats are allotted to the states in the Rajya Sabha on the basis of population. Hence, the number of representatives varies from state to state.

2. Representation of Union Territories

The representatives of each union territory in the Rajya Sabha are indirectly elected by members of an electoral college specially constituted for the purpose. This election is also held in accordance with the system of proportional representation by means of the single transferable vote. Out of the seven union territories, only two (Delhi and Puducherry) have representation in Rajya Sabha. The populations of other five union territories are too small to have any representative in the Rajya Sabha.

3. Nominated Members

The president nominates 12 members to the Rajya Sabha from people who have special knowledge or practical experience in art, literature, science and social service. The rationale behind this principle of nomination is to provide eminent persons a place in the Rajya Sabha without going through the process of election. It should be noted here that the American Senate has no nominated members.

● **Composition of Lok Sabha**

The maximum strength of the Lok Sabha is fixed at 552. Out of this, 530 members are to be the representatives of the states, 20 members are to be the representatives of the union territories and 2 members are to be nominated by the president from the Anglo-Indian community . At present, the Lok Sabha has 545 members. Of these, 530 members represent the states, 13 members represent the union territories and 2 AngloIndian members are nominated by the President .

1. Representation of States

The representatives of states in the Lok Sabha are directly elected by the people from the territorial constituencies in the states. The election is based on the principle of universal adult franchise. Every Indian citizen who is above 18 years of age and who is not disqualified under the provisions of

the Constitution or any law is eligible to vote at such election. The voting age was reduced from 21 to 18 years by the 61st Constitutional Amendment Act, 1988.

2. Representation of Union Territories

The Constitution has empowered the Parliament to prescribe the manner of choosing the representatives of the union territories in the Lok Sabha. Accordingly, the Parliament has enacted the Union Territories (Direct Election to the House of the People) Act, 1965, by which the members of Lok Sabha from the union territories are also chosen by direct election.

3. Nominated Members

The president can nominate two members from the Anglo-Indian community if the community is not adequately represented in the Lok Sabha. Originally, this provision was to operate till 1960 but has been extended till 2020 by the 95th Amendment Act, 2009.

2.3.3 PARLIAMENTARY ORIGINS

The genesis of India's Parliament can be traced back to the British response to the crisis of 1857, and the passage of the Government of India Act 1858, which created a Council for India to advise the newly constituted office of Viceroy and Secretary of State. Colonial conceptions of good government were not about representation and accountability, but also consultation and efficiency. However, between 1861 and 1892 and the passing of various Indian Councils Act, an emergent English speaking elite brought sufficient pressure to bear on the British authorities to make these bodies more accountable, and widen their scope of deliberations.

Parliamentary institutions in India evolved in a context of rapid socio-economic and cultural change, and a culture marked by political protest that both pressurized and responded to the scale of constitutional reform. The experience of this dialectic between parliamentary and extra parliamentary pressures led to the demand for

universal franchise being made an integral demand in the nationalist protest, as well as one that defined its shape and content, even if it did not question the broader structures of representative government itself. India's elite was committed to inheriting a British political system, essentially premised on Westminster and the idiosyncrasies of 'independent' representation, as opposed to a mandated and referendum based decision making. Despite arguments that such a system was inappropriate for an ethnically diverse country marked by significant degrees of social, cultural, and religious differences, debates on proportional representation and local government initiatives were sidelined in favour of FPTP.

The Indian constitution moderated British parliamentarianism only with reference to affirmative action for specifically identified social groups, which were deemed to have been materially disadvantaged to a degree that would act as a barrier to entering the parliament. Discrimination was applied to manipulate parliamentary representation to promote effective equality and was initially perceived as a temporary measure. Committed to the idea that Parliament should mirror societal plurality, little thought was given at the time of Independence to the problematic relationship between 'the represented and the representative', especially in the context of the changing outlines of multiple social identity, and wider disparities between parliamentary legislation and their effective implementation. At the same time, the history of the nationalist movement meant that provisions for reservations for the Dalits were not extended to Muslims and other minorities, resulting in substantial inequities in representation.

2.3.4 PARLIAMENTARY STRUCTURES

The Indian Prime Minister is the head of the executive, and his or her position rests on being the head of a political party with the largest number of MPs sitting in the Lok Sabha. The Lok Sabha is made up of representatives elected from single member constituencies, including the Speaker and two nominated members from the Anglo Indian community. The day to day functioning of the parliamentary

government, the ordering of business and the finessing of procedures rely on the role of the Speaker and the Deputy Speaker of the house. Indian PM has predominantly been members of the Indian National Congress, but with the onset of coalitions since the 1990, PM has come from a number of political parties. Between 1996 and 1998 for example the Janata Dal party formed a government despite holding a mere 46 seats less than a tenth of the entire lower chamber. Ultimately, however governments retain office so long as they can command a working majority. In the case of a premature dissolution, the President acts on the advice of the outgoing PM, advice from his own office and if necessary, the Supreme Court, to rather reconstitute a leader who can command a majority or call for fresh elections.

Bicameralism is a significant feature of the Indian parliamentary practice. The Rajya Sabha is a smaller body, with staggered indirect elections and members serving a period of six years and a third of its body up for elections every two years. As such the Rajya Sabha cannot be dissolved. The Rajya Sabha has limits to its ability to check and frustrate legislation emanating from the directly elected lower chamber. It cannot vote on a money bill, nor can it filibuster on it and the number of times it can return legislation passed by the Lok Sabha is limited. The Rajya Sabha has a chairperson who conducts its business.

The President, whose address sets out the government's agenda following a successful elections opens the formal parliamentary session.

One of the under researched areas of Indian parliamentary practice concerns its committee structure, both as bodies in their own right and as constituting a distinct phase in the passing and consolidation of legislation that adds to the effectiveness of Parliament. An effective committee structure is one that, regardless of the brute majority of the house, is able to bring diverse party opinion to scrutinize proposed legislation as it evolves, and to inform debate to improve policy effectiveness. Historically, the committee structures of the Indian parliament have been weak,

reflecting large government majorities, weak party discipline amongst the opposition, and a scrutiny process that is voluntary, and therefore largely under the control of the government. If wider consultation with the opposition are deemed appropriate or necessary the government can refer to legislation to the standing committee after the second reading or convene an adhoc committee specifically for the purpose.

The decline in single party government since the 1990s has stimulated the role and function of committees, and increased the need for governments to use them in managing broad coalitions. As the number of parties has increased in the House, the committee structure has become more representative of parliamentary membership, and this has enhanced their function when dealing with proposed government legislation. New committees have been formed recently, in such areas as parliamentary security and issues of ethics. Parliament also set up committee for women empowerment in 1997, the remit of which is to consider government legislation in the light of the National Commission for women and its recommendations concerning affirmative action. As of 2004, there are 19 committees. As 2019-20, there were seventeen adhoc committees. The most significant committees are the Public Undertakings Committee, the Estimates Committee, the Public Account Committees, and the Business Advisory Committee. The Privileges Committee is an important body, deciding on issues of parliamentary conduct, with limited powers of investigation. This is one of the most active committee in the parliament. The committee on Assurances is significant in that it follows up matters arising question time and various calling attention motions wherein ministers, unable to respond immediately.

The Speaker, usually through consensus, convenes adhoc committee, although votes have taken place in some cases. The Estimates Committee, made up of thirty members elected each year from the Lok Sabha, has the crucial job of scrutinizing government department estimates and recommended economies. One of the most significant types of adhoc committees is the Parliamentary Committee of Enquiry, set up the auspices of the Speaker, to look into and report on a particular issue of

concern and lay a report on a particular issue of concern, and lay a report before the House. There is also the commission of inquiry act which deals with the appointment by the government of a broader based enquiry into an issue of national interest. Finally, the Indian Constitution provides for the promulgation of Presidential Ordinances, in which the President passes legislation into immediate effect under the advice of PM and subject to Parliamentary approval, within a specified time period. Ordinances can only be issued when Parliament is not in session. Ordinances were devised to deal with issues such as national emergencies and the breakdown in state governments throughout the federal system.

2.3.5 DECLINE OF PARLIAMENT

In the early years of Indian Parliament, the Parliament was very effective. It was manned by the people of high standards. The government was more responsive and the opposition members also used to devote time for preparing their speeches and took government to task. However, as the time passed, there has been a general allegation that Indian Parliament has declined. The following reasons are attributed to the decline of Parliament.

- 1) There is a change in the complexion of the Parliament. Earlier lawyers, writers, teachers and educationists dominated the Parliament. The first Lok Sabha had as many as 153 lawyers. Thus it was the educated elite who enjoyed ascendancy in the Parliament. Now the Parliament is mere representative in the sense that agriculturists and members with rural background are dominating. The growing democratization of the political process has led to the fall in quality of debates.
- 2) From 1952 to 1967, the elections to the Parliament were linked with the state assembly elections. They were held simultaneously. With the result the people identified their local problems in the sphere of state politics and the members of Parliament had a minimal contact with their constituency. Thus devoid of petty constituency's problems, they could devote full time in the

Parliament's affairs. However, since 1970s, the delinking of Parliamentary and state legislative elections have taken place. Now the members of Parliament have to look after the local constituency problems also.

- 3) The party system is also responsible for the decline of Parliament. Parliament is effective when its members are free to express themselves and to vote. But this is not so. The members are elected with party support and the party bosses keep a very strict control over them. Every party in the Parliament has a chief whip and several deputy whips. During Parliamentary sessions, whips are issued in which the members are given notice to be present in the House at the time of voting and to vote in a particular manner. According to anti defection law an MP who violates a party whip is liable to be disqualified from the membership of the House. The members are not also free to speak, it is the chief whip of the party that decides who is going to speak and accordingly the list of the speakers in a particular debate is handed over to the presiding officer. Today MPs have to go to party bosses and cringe before them for speaking opportunities. This was not in earlier times when the members were much more free to speak. In a way, the strength of Parliament is also responsible for this decay. In such a large body of 545 members in the Lok Sabha and 250 in Rajya Sabha, every member cannot be given freedom to speak everytime. There has to be some selective process. However in the first three Parliaments the members still enjoyed greater freedom which is not today.
- 4) In theory, the Parliament controls the cabinet but in practice it is opposite. It is the cabinet which controls the Parliament. The cabinet has full control over the agenda of the Parliament. It decides the issue of summoning and proroguing the House. The President's address to the Parliament is prepared by the cabinet. An overwhelming majority of the total time of the house is consumed by the government initiated bills. But the Parliament has never enough time for discussion on the bills. The bills are allotted specific time

and after that time is completed, the voting takes place. It is immaterial whether sufficient debates has taken place or not. This is called guillotine. The budget is also passed by means of guillotine. Specific days are allotted for the different demands for grants for different ministries and after the allotted time is over, voting takes place.

- 5) The decline of Parliament is also seen in the lack of quorum in both the houses of the Parliament. The members are simply not interested in the sittings of the Parliament unless forced to do by the issue of a whip. The quorum or the minimum number of members required for the conduct of business is one tenth of the total membership of each house. However, the fact remains that the Parliament legislates without quorum. The bill for the creation of the National Bank for Agriculture and Rural Development (NABARD) was passed by the Lok Sabha when only 30 MPs were present who voted in favour of the bill. In 1990, the budget was passed by just 20 members present in the Lok Sabha. In 2002 when the finance bill was being discussed, the Lok Sabha had to be adjourned for want of quorum. The problem of absentism is very acute in the Parliament and nothing has been done, so far, to tackle this problem.
- 6) The conduct of Parliamentary meetings also show the decline of Parliament. The members are expected to maintain the decorum of the House. For this there are certain Parliamentary etiquettes which should be followed by them. But invariably this does not happen. The Parliament is plagued by interruptions, noises, dharnas and unparliamentary expressions. No member is supposed to speak without the Speaker's permission but very often this is not followed by the opposition and sometimes even by the party in power.
- 7) There have also been cases when the bills were passed, President gave assents but still the law was not enforced. According to the Constitution,

a law passed by the Parliament which has received President's assent is enforced by the President by issuing a notification in the Gazette of India in which the date of commencement of the act is declared. However, this is not done in many cases. For example in the case of the Hire Purchase Act of 1972, the notification was issued and withdrawn, again issued and withdrawn. There are other cases when notification was not issued like the Wakf (Amendment) Act, 1984, Prasar Bharti (Broadcasting Corporation of India) Act, 1990 and Delhi Control Act. Similarly new clauses 4 and 7 in article 21 of the Constitution which were included vide Constitution 44th Amendment Act 1978 has not brought into force. This shows the lack of the will on the Parliament to assert itself by not taking any significant objection to the treatment meted out to its laws by the executive.

- 8) The growth of delegated legislation has led to the decline of Parliament. Delegated legislation is a universal phenomenon and the Indian political system is no exception to it. As the Parliament suffers from the paucity of time, therefore it has no time to go into the details of an act. Therefore it passes the Act in a brief manner and the details are to be worked out by the executive. Thus the Parliament delegates its authority of making laws to the executive and hence the name delegated legislation. Delegated legislation, also called as subordinate legislation, includes the rules, regulations and order issued by the executive to supplement the Act passed by the Parliament. In theory Parliament has a right to control such legislation. However, in practice, the Parliament never has the time to do so. The delegated legislation strengthens the power of bureaucracy who actually frame the rules leading to Bureaucratic Raj. Many times the politicians have alleged that bureaucracy does not enforce the laws especially laws concerning socio-economic objectives. It ensures the implementation of law in a way so as to defeat the basic objectives of the law.

- 9) Then there is the corruption. The members of Parliament have been accused to corruption. The industrialists lobby always tries to get them into their clutches by corrupt practices. In 1970 License Scandal rocked the Parliament in which a minister was also alleged to be involved besides two MPs Tul Mohan Ram and Yogendra Jha who had forged the signature of 16 MPs. However, no action was taken against them. Now the corruption has become a cardinal feature of Indian Political System and even the highest echelon of power are being accused of corrupt practices. And the Parliament has remained ineffective in containing corruption. This has led to a general decline in moral standards.
- 10) There is a general loss of confidence on the politicians in the country. There immoral behaviour and lust for power has been exposed. Further there is a general criminal politician nexus. A member of the united front government had to resign because there were serious cases pending against them. There have been MPs with criminal background. This has also compromised with the prestige of the Parliament.

Thus the decline of Parliament is a serious development which has its negative impact not only on its law making function and control over executive but in its total working.

2.3.6 CHALLENGES FACED BY THE PARLIAMENT

● Criminalisation of Politics

According to a report by the Association for Democratic Reforms (ADR), the proportion of legislators with criminal cases against them has continuously increased. It stood at 15% in the year 2009 moving to 19% in 2019. This has impacted the standards of democratic discussions, debate and dissent.

- **Dominance of Archaic Laws**

India is a young nation but it is still ruled by old laws. For example, the police is governed by such colonial-era statutes as the Police Act of 1861, which predates independence by nearly a century. The archaic laws are inadequate in addressing contemporary challenges.

- **Anti-Defection Law**

The Anti-defection law (Tenth Schedule of the Constitution) states that the Speaker/Chairman of the legislature is the final authority to decide on the disqualification of a legislator. However, the role of the presiding officers has become increasingly politicized. Thereby creating doubts over Speaker's role vis-à-vis anti-defection law being biased, as recently seen in the Karnataka political crisis.

- **Decline of Representative Democracy**

As per Anti-defection law, the legislators have to vote as per party whip. Due to this, legislators are compelled to vote on party lines irrespective of their local or regional interest. This has narrowed scope of democracy dissent and divergent views. India has first past the post electoral system, which means that candidates winning the highest number of votes gets elected. This leads to neglect of representation of voters who voted for another candidate. Also, this system of voting is not suitable for the representation of minorities, raising questions on representation. Only 14.3% (78) of the total members in the current parliament are women. All these factors taken together defeat the intended purpose of representative democracy.

- **Lowering Standards of Parliamentary Scrutiny**

In order to ensure that Parliament discharges its law-making responsibilities effectively, the concept of Department-related Standing Committees was introduced in March 1993. These committees are meant to scrutinize legislation pertaining to specific ministries. However, the majority of the bills were passed by the Parliament

through a voice vote, without much debating and without referring them to the parliamentary committees. For example, RTI Amendment Act (2019), UAPA Amendment Act (2019) - which have huge implications on civil liberties, were passed without referring them to the Parliamentary committee. Frequent Elections India is a Union of 28 states, thereby putting India in a continuous cycle of Lok Sabha and State Legislative Elections. The frequent elections lead to massive expenditure and policy paralysis (due to imposition of the Model Code of Conduct during election time).

- **Parliamentary Privileges Curbing Freedom of Speech**

Parliamentary privileges under Article 105, are sometimes used to curb freedom of the press through Strategic lawsuit against public participation (SLAPP). A SLAPP is a lawsuit that is intended to censor, intimidate, and silence press in the name of parliamentary privileges.

- **Weakened Opposition in India**

Democracy works on the principle of checks and balances. It is these checks and balances that prevent democracy from turning into majoritarianism. In Parliamentary system, these checks and balances are provided by the opposition party. However, the majority of a single party in the Lok Sabha has diminished the role of an effective opposition in the Parliament.

- **Steps Taken so far Electoral Bonds**

In order to cleanse the system of political funding in the country Electoral Bonds Scheme was launched in 2017. This is an effective step to minimise the role of black money in the election and thereby keeping a check on criminalisation of politics.

- **Regulating Anonymous Donations**

In Union Budget 2017-18, the government declared that the maximum amount of cash donation, a political party can receive is Rs2000 from one person.

NOTA (None of the Above) option in electronic voting machine was mandated by the Supreme Court of India in 2013. It enables the voter to officially register a vote of rejection for all candidates who are contesting.

- **Removal of Archaic Laws**

In accordance with Ramanujam committee (2014) recommendation, the government plans to repeal more than 1500 archaic laws. Bill to provide reservation for women in the Parliament was introduced in 2008. However, till now it has not been passed.

2.3.7 WAY FORWARD

- **Legislative Impact Assessment**

A detailed framework for pre and post Legislative Impact Assessment was needed. Every legislative proposal must incorporate a detailed account of social, economic, environmental and administrative impact for wider awareness and subsequent legal assessment. A new Legislation Committee of Parliament to oversee and coordinate legislative planning should be constituted.

- **Codification of Privileges**

The privileges of legislators should be defined and delimited for the free and independent functioning of Parliament and state legislatures. Article 105 may be amended to clarify the extent of immunity enjoyed by members under parliamentary privileges Parliamentary committee reforms Measures for the effective functioning of Department Related Standing Committees like longer tenure (instead of the present one year), promoting specialization, etc ,are needed.

- **Review of Anti-Defection law**

In order to revive debate and deliberations in the Parliament, the use of whip can be restricted to no-confidence motion only. The adjudicating power of speaker vis-à-vis anti-defection law can be transferred to Election Commission of India.

- **Curbing Criminalization of Politics**

The Supreme Court in 2017 asked the Central government to have the 12 promised special courts up and running by March 2018 to try criminal politicians in a time-bound manner within the maximum period of a year. However, till now only 7 such courts are operational. Therefore, the government should make efforts to establish more number of such fast track courts. In order to curb the use of money in the elections, India must adopt state funding of election. For that purpose, a national electoral fund can be constituted, which will comprise all political donations.

- **Statutory Reforms**

The Hybrid system of voting can be brought by amending Representation of People's Act of 1951. However, simultaneous election will require constitutional amendment.

- **Hybrid system of voting**

It is a mix of both first-past-the-post and proportional representation voting system. It was recommended by the Law Commission in its 170th report which suggested that 25% or 136 more seats should be added to the Lok Sabha and be filled by proportional representation. This will lead to better representation of all sections of society.

- **Simultaneous election**

It will save public money, reduce the burden on administrative setup and security forces, ensure timely implementation of the government policies. It will also ensure that the administrative machinery is engaged in developmental activities rather than electioneering.

- **Strengthening of Election Commission of India**

Statutory backing to Model Code of Conduct: It is expedient to give statutory backing to the Model Code of Conduct leaving no vacuum for the Election Commission of India (ECI) to exercise its residuary power to enforce the Model Code of Conduct.

- **Strengthen the Role of the Opposition**

In order to strengthen the role of the opposition, the institution of shadow cabinet can be formed in India. 'Shadow Cabinet' is a unique institution of the British cabinet system. It is formed by the opposition party to balance the ruling cabinet and to prepare its members for future ministerial office. In such a system each action of Cabinet Minister must be countersigned by the minister in the shadow cabinet.

2.3.8 LETS SUM UP

Electoral politics has reflected the social division in the society as political parties are formed on the basis of parochial considerations. Societies have become more fragmented and fragile. There has been a great deal of political instability during the last decades. Politicisation at ground level coupled with a highly fragmented society, has given rise to a multiplicity of political parties. Each one of these exists not on a different ideology or economic programme, but on the basis of having nursed a narrow parochial, mostly caste or religion based, identity for itself and its band of followers. Even this support is usually earned not by doing some constructive work for the concerned group but negatively by bad-mouthing others and the entire time pitting one group against the other.

The party system is now said to be moving from a one party dominance system to a multi-party competition, from social cohesion to fragmentation, from a stable pattern to fluidity, from order to chaos as the principle of party competition. The one party dominance has now been replaced by coalition government. It has led to the emergence

of regional centres of power. Regional political parties are playing very crucial role in the national politics. At the same time as regional parties are gaining influence relative to Congress and the BJP, local issues are dominating the election to the exclusion of national ones. As a result, political parties have focused their campaign efforts on highlighting their achievements in promoting local economic development.

M.A. Political Science, Semester I
Course Title: Indian Political System
Unit – II: Structures of Governance

2.4 JUDICIAL SYSTEM: NATURE, ROLE IN SOCIAL AND POLITICAL TRANSFORMATION, JUDICIAL OVERLOAD AND JUDICIAL ACTIVISM

- Pankaj Kumar Sharma

STRUCTURE

- 2.4.0 Objectives**
- 2.4.1 Introduction**
- 2.4.2 Supreme Court: The Actual Record**
- 2.4.3 Judicial Activism and Judicial Review**
- 2.4.4 Judicial Review: Theoretical Basis**
- 2.4.5 Judicial Review in India**
- 2.4.6 Critical Appraisal**
- 2.4.7 Lets Sum Up**

2.4.0 OBJECTIVES

After going through this unit, the student should be able to know:

- The structure of judiciary in India
- The Actual Record of Supreme Court
- Issues related to Judicial Activism and Judicial Review

2.4.1 INTRODUCTION

In Indian constitution the judiciary has the power of Judicial Review. Judicial Review (JR) is explicitly given in case of protection of Fundamental Rights (FRs). The power of JR is derived from the other provisions of the constitution. These provisions provide judiciary the basis of interpretation of executive and legislative actions. Indian judiciary has to play an important role along with the other two branches of Govt. towards realization of the objectives given in Preamble. It has to establish social order based on spirit of justice.

2.4.2 SUPREME COURT: THE ACTUAL RECORD

The actual record of the Supreme Court (SC) towards fulfillment of its envisaged role can be studied under two heads.

1. Role of SC towards achievement of the ideals.
2. SC's role with regard to the theory of Govt. and as envisaged by Constituent Assembly.

SC's record towards protection of right to life, liberty and property can be analyzed under two phase.

2.4.2.1 Phase I: 1950 to End of Emergency (Right to property)

From the various decisions of SC, during this time it appears that the attitude of SC was conservative initially. SC has defended right to property and the interests of the feudal Class and the capitalist class. According to the critics SC failed to appreciate the revolutionary spirit behind FRs, Directive Principles (DPs) and Preamble. SC became defender of status quo. In case of right to property, SC has held that FRs is

superior to DPs. If parliament wants to give effect to the DPs which contradict FRs given under part in it can do so only by amendment. SC even invalidated those laws which were aimed at land reforms. Ultimately Govt. was forced to bring 1st amendment act and introduced 9th schedule for realization of the egalitarian objectives of Indian constitution. It is said that court appeared to be elitist. Court failed to realize that land reforms were always a national agenda even before independence. In Golaknath case, SC took the reactionary stand. It even took the stand that Parliament can't abridge any FR even by bringing amendments. Court continued its reactionary attitude. Hence Court invalidated legislations like abolition of Privy Purse given to former princes and the legislation for bringing nationalization of banks.

Later on, Court realized that right to property is causing controversy. The mandate of 1971 elections also communicate to court that right to property is not superior to the objectives given under 39 (b)-(c). Hence in Keshavananda Bharati case Court has changed its opinion. It has held that right to property is not a basic structure.

Courts Record towards right to life and liberty:

In case of interpretation of right to life and liberty, SC continued to adhere to the principle of positive law. It failed to appreciate the developments that were happening worldwide in the field of law. There was growth of pluralist school of law and growth of Human Rights and the concept of natural law. In A.K. Gopalan Vs State of Madras Case SC has held that the concept of due process of law is not found in Indian constitution. Indian Constitution clearly mentions the procedure established by law. However, during emergency Indian people suffered. Consequently SC had changed its opinion. In Maneka Gandhi case has accepted that the concept of due process of law is very much a feature of Indian constitution, procedure established by law carries no meaning without due process of law. After this judgment SC came to interpret Art. 21 in a very liberal manner. It has extended scope of Art. 21. It has brought new rights within the scope of art. 21. Thus Indian SC has changed its opinion. It has held in realization of FRs of the vulnerable sections of Indian Society. It has also directed

the executive of Indian society. It has also given under Art 21. The phenomena at times is known as 'judicial activism'. In Menaka Gandhi case SC has held that art. 21 should be read along with article 14 which stops arbitrary actions on the part of the State.

In case of Article 46

Article 46 is given under DPSP. This article aimed to provide employment and educational facilities to the backward sections of Indian society. INM and CA always had a goal of establishing egalitarian social order. This is how the concept 'Swaraj' was interpreted in Indian context. Since State was not having sufficient resources, this right was put under Part-IV rather than Part III. In Champakam Dirairajan Vs State of Madras case SC has declared the attempt of State Govt. to give reservations to backwards on the ground that it contravenes article 14, 15 and article 29(2). Thus SC failed to realize the vision of Indian constitution. Ultimately, Govt. has to bring amendment in the constitution to give effect to such politics.

Thus critics fault that in initial phase SC became protector of the entrenched class. It took conservative approach and delayed the process of bringing social change.

2.4.2.2 Phase II - After Emergency

After emergency we see change in the approach of judiciary. Indian judiciary was able to adopt itself according to the changing needs of the times it has incorporated the various developments which were happening in the theory of law as well as in the realm of political values. SC has accepted the concept of due process of law. It has upheld that reservation policy for backward classes in the famous Indra Sawhney case. However, SC on its own has tried to put limitations on Government e.g. it gave the concept of creamy layer. SC also held that the total reservation should not go beyond 50%.

The record of SC in the second half is good enough towards giving liberal interpretations to the rights given under chapter III and chapter IV. Over the years SC became one

of the most trusted and respected institution. SC's role towards promotion of rights of the vulnerable sections and its activist agenda has brought admiration to the institution. One of the most important contributions of SC towards the realization of FRs and especially of vulnerable sections is the concept of PIL.

SC as the protector of federalism

In this context also SC has shown activism only after the revocation of emergency. Before emergency, SC has not shown any activism w.r.t. the real use of article 356 in case of states. It was only 1993, federalism is a basic structure. It has issued guidelines w.r.t. the way article 356 should be used. With the involvement of Indian judiciary we see the use of article 356 has declined.

Some people feel that judiciary should have taken such an activist agenda in the context of Article 356 quite earlier. It would have saved Indian politics from the regional aspirations which stretched to the demand of secession from Indian Union.

Role of SC towards maintaining Rule of law

Judiciary in the second phase played an important role towards maintaining the rule of law. It has ordered investigation and prosecution in the cases of corruption involving political figures even of the rank of PM and CMs. SC has even ordered that investigating agencies should act under its supervisions to save it from the interference of the political bosses. SC has invalidated the appointment of Jayalalita as CM. It has established that no administrative action is beyond the scope of JR, it is an action of implementing article 355 or pardoning power of President.

Thus, judiciary is responsible to large extent in evolution of the concept of rule of law and constitutionalism in India.

Towards the protection of the constitution

SC has invented the doctrine of basic structure. Thus Indian SC is able to perform the role of the guardian of the constitution. Now even by amendment, Parliament or executive can't change the basic structure.

Role in adjudicating disputes among the units of federation

In this context also SC has played its envisaged role. In the context of River water disputes it has even directed Govt. to constitute the tribunals as mandated by the constitution.

2.4.3 JUDICIAL ACTIVISM AND JUDICIAL REVIEW

According to the traditional theory of Govt., the role of legislature is to make laws, the role of executive is to implement and the role of judiciary is to interpret. Judiciary has power of JR. Hence it can declare any law made by legislature and any act of executive as null and void if it is not according to provisions of the constitution. In Indian context also the scheme of the Govt. assigns judiciary the role of interpreting the constitution. Indian judiciary also has power of JR. However, over the years we see the emergence of the phenomena commonly known as judicial activism and at times judicial overreach. Number of times we hear from the Government as well as from the legislature that judiciary is intruding into the arena of the other branches of the Government. Former Speaker of Lok Sabha Somnath Chatterjee has indicated towards the dangerous trend of warn that judiciary is attempting to disturb the responsibility governing of country.

Different organs have their different spheres and judiciary should not encroach the sphere of other branches of Govt. Recently SC itself has urged to lower courts to exercise caution and not to have exclusive activism.

Above developments show that judiciary is moving beyond its envisaged role. Recently judiciary has come under criticism for intruding into the areas which are known as the preserves of executive e.g. judiciary has recently issued notice to Union Govt. where it has sought explanation with regard to the steps taken by the Govt. to ameliorate the situation of Indian students in Australia who have been facing racially motivated attacks. Such an act of judiciary brings it into the sphere of foreign policy. DP comes into a non-justiciable area. Ideally courts can't interfere into it.

Similarly, SC has questioned the CM of UP towards constructing the statues worth Crore of Rupees. Like DP, budgetary allocations are also non-justiciable. They are

prerogatives of executives or legislature.

Judiciary is this encroaching into the sphere of other branches of Government. According to the critics of judicial activism such is not the envisaged role of judiciary. It can threaten the original constitutional design. It is a non-representative wing. It can't super scale the decisions of the representative body until and unless such decisions will result into the gross violation of the constitution. Such acts of judiciary results into the politicization of judiciary, it creates tensions & among the different branches of Government judiciary is itself suffering from a many defects. There is large number of pending cases. It is also suffering from the problems of corruption. Hence it should rather try to limit itself to its own work. It neither has expertise nor resources nor political legitimacy to take policy decisions.

According to the supports of judicial activism, such an approach towards the scope of action of judiciary is status quoin. According to the / modern theory of Govt. all political structures are multifunctional. Almond and Powell in their structural functional approach have given that judiciary performs both administration as well as legislative functions. Thus from this point of view there is nothing wrong when judiciary questions the policy of Parliament or directs Govt. to perform some acts. The supporters of judicial activism believe that all the three branches of Govt. together constitute an organs whole. If the responsibility of all the branches to provide meaningful life to citizens, if the other two branches are not performing their appropriate role it will not correct that judiciary also declines to provide redressal of grievances. Supporters believe that it has acted as a safety valve. Judicial activism has played a positive role in Indian context. India which is known in other countries as soft state in this context judicial activism makes an attempt to change idioms related to Indian States.

Judicial activism should not be treated as an ideal or end in itself. It should be treated only as a medicine and not as a daily bread. The problem can be resolved only when we are in a position to meet those situations which results into the emergence of judicial activism. There are many reasons for judicial activism but one of the most important reasons is in-activism on the part of other two branches. Hence simply

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judicial reforms are not sufficient. We need cleansing of the entire system and overhauling of entire system only when legislature and executive will perform their envisaged role we can expect judiciary to play its envisaged role and remain in its own sphere.

2.4.3.1 Judicial Activism

The activism concept can be understood from the concept of chemistry. When electrons moving in a specific orbit gains extra energy they tend to cross their orbit and enter into another orbit. Thus JA will be a situation where Judiciary intervenes into the spheres of other branches of Govt. There can be different reasons for JA in different countries. Thus we can classify Actions into two types 1. Judicial restraint means the process when judges think that their task is limited to the interpretation of law and application of law and regulations in specific cases it is said as Judicial Restraint. 2. Judicial Activism means the process when judges don't conflicts and venture into the sphere of policy making, then it is known as JA. JR impacts only the parties in the conflict. It may have wider application because judicial decisions became a matter of reference. However, JA impacts the life of large number of people. :

Factors conducive to the growth of JA:

According to study conducted by Kenneth Holl and in the area of JA based on 11 countries he believes results into an activist judiciary

- (a) Written constitution
- (b) Federalism
- (c) Judicial independence
- (d) Absence of separate administrative courts
- (e) Competitive political party system.
- (f) General rule of access to courts like PIL.

- (g) Concept of rule of law.
- (h) Political culture which gives high esteem for judges.
- (i) Doctrines like natural law and common law tradition.

Conditions giving rise to JA in India

India meets most of the above conditions. We have written constitution: Judiciary has power of JR. For protector of Fundamental Rights Judiciary has liberalized the concept of locus standi.

There are certain indigenous factors associated with JA in India.

1. Undermining of judiciary by legislature during one party dominance system.
2. Atrocities committed on Indian people during emergency and because judiciary has adopted judicial restraint.
3. In Contemporary times, in activism of executive.
4. Decline of parliament.
5. Political instability in coalition era.
6. Increase in the level of corruption because of NEP.
7. Growth of HRs legislations worldwide.
8. Growth of civil society.
9. Role of information and technology.
10. Judicial romanticism on the part of civil society.
11. Activism on the part of judges.

2.4.3.2 Types of activism practiced by Indian Judiciary

It has practiced both negative and positive activism JA has been both reactionary as well as progressive. In India we also see the phenomena of judicial overreach or high

headedness on the part of judiciary e.g. Judiciary using its power of contempt of Court to punish midday journalist or SC Judge making a remark for imposition of article 356 in case of Tamil Nadu because of the possibility of deteriorating law and order situation because of setus am dram complex.

Tendencies of Judicial Activism in India

1. Judiciary directs other branches of Government for their failure to discharge their duties.
2. It takes place when court directs the Govt. as to what policies are desirable.
3. It takes place when court tells Govt. how to run the administration.
4. When court not only decides the case but also monitors the implementation.
5. When court gives direction to investigating agencies.
6. When court changes its own procedures by liberating or through the system PIL.

Arguments against JA

1. It does activism at the expense of its own normal adjudicatory work.
2. It enters into an arena where it has neither expertise nor competence.
3. It can lead to the politicization of judiciary. Judiciary is not elected and hence it is least representative. It is not responsible to the people in the manner Parliament and executive are it impacts the growth of other branches of Govt. Judiciary takes up additional burden. Personal opinion of judges may reflect. It is against the spirit of article 50.

Benefits of JA

1. It a mechanism to deal with dys-functionalism of other branches of Govt.
2. It is like a damage control device.

3. It has helped in providing justice to the poor.
4. It can change image of India as a soft state.
5. It has ushered in the social reduction.
6. It has protected federalism.
7. It has protected the unity and integrity of India by establishing secularism as basic structure.
8. It has protected sanctity of constitution.
9. It has maintained rule of law.
10. It has resulted into progressive interpretation and growth of the constitution.

2.4.3.3 Judicial review

It is a power of judiciary to review legislative enactment or acts as well as executive actions and to declare them null and void if they are found contradictory to the provisions of the Constitution. Judicial review originated in USA. It was the invention of Chief Justice Marshall who in Marbury Vs Madison case (1803) asserted that the ultimate power of interpretation of Constitution lies with the court and hence judiciary has the power of judicial review. The judicial review has its importance because of its specific functions and these are:

1. It protects against the undue encroachment of the Constitution.
2. It legitimizes the actions of the Government.

In case of Britain, judiciary can review the executive acts. In case of USA judiciary can review both the legislative as well as executive acts. In case of India, judiciary can review both legislative as well executive acts according to the provisions of the Constitution.

In countries like India and USA federal court, i.e. the Supreme Court performs the specific function. In India High Court also has the power of judicial review. In some countries separate constitutional courts exist for this purpose e.g. France, Germany and South Africa.

2.4.4 JUDICIAL REVIEW: THEORETICAL BASIS

The theory of judicial review emerges from the works of John Locke. Locke considered that government is a trust. Government is to confirm the principles of natural law by formulating the laws. Thus judiciary got the powers to review the acts of the other two branches of the Government. Judiciary is that branch of Government which performs the job of interpretation of the Constitution. Because of the power of judicial review, some people believe that judiciary acts as a third chamber. The critics of judicial review believe that the system of judicial review results into the political system governed by the nonelected judges. For such people, democracy requires legislative supremacy. According to supporters of judicial review, legislatures reflect mandate for a short duration. Legislatures do not represent electoral mandate. Constitution sets the parameters for electoral mandate.

2.4.5 JUDICIAL REVIEW IN INDIA

in Indian context, we find the facts of clarity with regard to the authority of the parliament and the scope of the authority of the judiciary. We have adopted the two contradictory principles i.e. parliamentary form of government in a federal set up. Parliamentary form of government requires the supremacy of legislature whereas federal form of government requires the supremacy of constitution. Hence the two organs of the government are likely to emerge as competitors e.g. parliament passes a law and judiciary declares it unconstitutional. Parliament responds by making amendment and judiciary imposing limitations through the doctrine of basic structure.

Indian constitution does not explicitly talk about the judicial review. It emerges from the following provisions of the constitution:

1. Chapter on Fundamental Rights: here judiciary is the ultimate arbiter under the provisions of Article 13 (2) and Article 32.
2. Similarly high Courts have power of judicial review under Article 226.
Articles 32 & 226 provide protection with regard to fundamental rights by issuing various kinds of writs.
3. The 7th schedule which talks about the distribution of the subjects in three lists
4. Article 131 dealing with the original jurisdiction of the Supreme Court in context of disputes between centre and states and among states.
5. Other article 132, 133, 134, 136, 153, 155, 246, 251, 254, 372.

PRICIPLES OF JUDICIAL REVIEW FOLLOWED IN INDIA:

1. The validity of the act should be challenged on the actual grounds and not on the hypothetical grounds only exception is advisory jurisdiction.
2. Whenever law is challenged, court will examine the material facts and then decide the constitutional validity.
3. Constitutional validity can be challenged on following grounds:
 - i. The ground of competency.
 - ii. If law is against the provisions of the constitution.
 - iii. If it abridges the fundamental rights.
 - iv. Earlier the concept of due process of law did not exist in Indian constitution. Since Maneka Gandhi case, law can be challenged on both the grounds i.e. procedure established by law as well as due process of law.
 - v. Judiciary follows the principle of legislative constitutionalism. There is a presumption in the favour of the constitutionality of the law. Court take it

for granted that the law passed by legislature is valid. Burden lies on the petitioner to prove that such a law is invalid.

- vi. **The doctrine of severability**; court will not invalidate the entire act. It will invalidate only that portion which is against the provisions of the constitution. however, court can invalidate the entire law also if in the opinion of the court remaining part will not stand without the part declared null and void.
- vii. Court will not entertain the political controversy. It will deal with the legal aspect only.

PROGRESSIVE LEGISLATION: Law will be interpreted in line with the social, political, economic and cultural values of the time.

Court will not decide the constitutional validity if case is capable of being decided on another ground.

Court will not decide the larger portion of law then required by the case.

2.4.5.1 Constitutional limitations on judicial review

Judicial review in India has some constraints and limitations also and these are as follows;

1. Directive principles are non justiciable.
2. Courts will not enquire whether any or if so what advice was tendered by prime minister to president under article 74 (2).
3. The orders and instrument authenticated and executed in the name of President shall not be questioned on the ground that they are not made by the President.
4. Parallel provisions exist in case of states.

5. Courts are prohibited from enquiring into the proceedings of legislature under Article 121(1).
6. No officer or Member of Parliament in whom the power to regulate the procedure of the house is vested shall be called into question for his conduct in this context.
7. Constitution bars the interference of courts in the laws relating to the delimitations of constituencies, allotment of seats or from entertaining matters related to the election of legislatures.
8. Members of parliament have immunity from the proceedings of the court for anything said in the parliament or for giving vote.
9. The Para 7 of 10th schedule mention that the court will not enquire into any matter related to the disqualification of the MPs.

Thus in Indian context, the provisions of the constitution limits the scope of judicial review. In case of USA, the scope of application is greater because constitution does not contain such a large body of provision. However, the courts in Indian context have expanded the sphere of judicial review by giving the basic structure doctrine and the concept of due process of law.

SCOPE OF JUDICIAL REVIEW IN INDIA:

The legislature acts as well as the executive acts of both the central as well as state governments come under the scope of judicial review in India. Indian judiciary can even review the amendments; it is the power which is not exercised by any other Supreme Court in the world.

2.4.5.2 Phases Of Judicial Review In India

Phase I: The first case in which the scope of judicial review was examined by Supreme Court was A.K. Gopalan case (1951). In this case, the prevention of detention act of 1950 was challenged. Court has declared part of the act as invalid. Court has

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established that the constitution is supreme and judiciary is to see that other branches of government should not encroach the constitution.

The first decade was the decade of restraint. Out of out of 695, most of the acts get passed but only one act was invalidated. In case of judicial review, the following principles were accepted:

1. Parliament and judiciary are supreme in their own spheres.
2. Constitution has imposed limitations on both.
3. Constitution does not provide for due process of law.
4. Courts will question only when constitutional limitations are transgressed.
5. Courts will take constitution as it is rather than as should be.
6. Court will not question the wisdom of law.
7. Legislative tyranny should be addressed the public opinion.
8. The Supreme Court does not have power to review the amendments.
9. Judiciary has adopted the doctrine of judicial restraint.
10. Court has accepted the principle of judicial subordinates to executive wisdom.

Court has applied the judicial review in limited sense in: *Champakam Dorairajan case*, *Shankari Prasad case*. Moreover, the court has acted more actively in *Bela Banerjee case* (1954). In this case court has directed that the government should give adequate compensation when it takes up a property. Again in *Keshav singh case*, Supreme Court has created controversy when it held that the privileges of the Parliament are subjected to fundamental rights

ASSESSMENT: relatively harmonious relationship existed between the three branches of the government. Differences did emerge but they were settled by compromise and accommodation.

Phase II: Golaknath to Keshavananda Bharati

Golaknath case was the first paramount assertion of judicial activism. Judiciary has left judicial restraint. This was the time when congress system started to break. There was a widespread discontent in the country with the autocracy of the government. There was rise of corruption. This was the phase when JP started talking about the mass movement i.e. extra parliamentary method of legislation. The Bank Nationalisation case and Privy Purse case are the other examples when judiciary asserted itself. This was the phase of discord both executive and judiciary. Indira Gandhi blamed judiciary for practicing negative activism and stumbling the social change. She demanded committed judiciary. In 1971, Congress came with full majority. Powers of judiciary were curtailed by bringing amendments.

Phase III: Keshavananda Bharati

In Keshavananda Bharati case, judiciary innovated a new doctrine i.e. doctrine of basic structure. During emergency, the government has tried to undermine the powers of judiciary by 39th, 42nd amendment acts. 39th amendment act made election of Prime Minister unassessable in the court of law. This was challenged in a case of Indira Nehru Gandhi vs. Raj Narayan The 42nd amendment act curtailed the powers of judiciary to review amendments to nullify the impact of the doctrine of basic structure.

Phase IV: After Emergency

44th amendment act has restored the position of judiciary. In Minerva Mill's case, the judiciary asserted that judicial review is a basic structure. The phase of 1980's saw the enormous growth of judicial activism. The system of PIL became an important basis for judicial activism. Judiciary extended its scope of action i.e. beyond the review of the act it has started directing the government. In 1933, the judiciary has taken up the real powers from executive w.r.t. the appointment of judges. In 1990's the scope of judicial activism increased further. Following factors are responsible for such increments in powers of judiciary:

1. The new economic policy
2. The rise of coalition politics
3. The decline of parliament
4. The rise of political corruption
5. Acceptance of PIL
6. The doctrine of implied power

Basic structure doctrine

The basic structure doctrine emerged in the case of *Keshavananda Bharati* (1973). It is an implied power of judiciary rather than the expressed power under article 368. This doctrine is based on the theory of the supremacy of the Constitution. It limits the power of legislature in context of making amendments. Judiciary is the guardian of the constitution and hence judiciary performs this job by using the basic structure doctrine. From the point of view of supporters of basic structure, the constitution must survive. Powers to amend does not mean power to destroy the constitution. In the context of socio-economic changes, the amendment of the constitution becomes inevitable. However, it is necessary to remember that amendment is not equal to the creation of the new constitution.

According to the critics of the doctrine of basic structure, the basic structure doctrine is an attempt of judiciary to enlarge its power of judicial review. According to the views of Sunil Krishnaswami, the author of “Democracy and Constitutionalism in India”, judiciary never attempted to outline the basic features of the constitution. There have been many cases when judiciary could have done so but it has avoided doing so. Initially, the doctrine has held in saving the damage to the constitution or altering its identity. But gradually it became a type of administrative law. Judiciary is reviewing the executive actions of the government e.g. in case of application of article 356. The author points out that the judiciary has confused the basic structure review with rights

compliance review judiciary should apply restraint because it questions the representative body of government. According to him if the people and the government do not want it, it will become difficult for judiciary to sustain the doctrine. The approach of judiciary has been based on positivistic assumptions rather than on historical or political circumstances. Basic structure doctrine involves judiciary in complex issues. It brings tensions between the two branches of government. The doctrine itself is ambiguous because at times court is itself sharply divided. No majority judgment is available laying down the basic structures of the constitution.

Evolution of Basic Structure Doctrine

1. Keshavananda Bharati case (1973)

The Supreme Court hold that abridgement of fundamental rights cannot be accepted to the extent that it destroys the core. Judiciary outlined the following features of basic structure-

- I) Supremacy of constitution
- II) Republic
- III) Secularism
- IV) Separation of power
- V) Federation

2. Indira Gandhi vs Raj Narayan case (1975)

- I) India is a sovereign democratic
- II) Concept of rule of law

3. Minerva Mill's case (1980)

- I) Judicial review

II) Balance both fundamental rights and directive principles

4. S.R. Bommai case

I) Secularism

II) Federalism

Basic structure is applied in case of both ordinary law as well as amendments. It will apply with prospective effect.

2.4.6 CRITICAL APPRAISAL

From the above, it is clear that the scope of judicial review in India is narrower than that of what exists in USA, though the American constitution does not explicitly mention the concept of judicial review in any of its provisions. This is because, the American Constitution provides for ‘due process of law’ against that of ‘procedure established by law’ which is contained in the Indian Constitution. In India, this wide power of judicial review by the American Supreme Court in the name of ‘due process of law’ clause has made the critics to describe it as a ‘third chamber’ of the Legislature, a super- legislature, the arbiter of social policy and so on. No doubt, this American principle of judicial supremacy is also recognized in our constitutional system, but to a limited extent. Nor do we follow the British principle of parliamentary supremacy. There are many limitations on the sovereignty of parliament also in our country. In effect, what exists in India is a synthesis of both, i.e. the American principle of judicial supremacy and the British principle of parliamentary supremacy.

2.4.6.1 Judiciary as Change Agent: Some Insights into the Changing Role of Judiciary in India

The Indian Judiciary has completed 60 years of its existence and has made long lasting contribution to the system of governance that has impacted the life of the people and the nation. In many ways, it has impacted the nature, scope and processes of public governance and can claim credit for expanding the meaning of the constitution

in favor of different segments, especially the poor, of the society. It has strengthened Indian federation, catalyzed goal achievement, deepened democracy and defended people against excesses of the State. It has acted as a promoter of peace, cordiality and balance and coordination between different organs of the government. At one time it was thought that the role of judiciary is only to interpret the laws and the regulations and provide judgements exclusively from the legal point of view. This perspective has undergone a sea change in the recent times. Envisaging the role of the supreme court of India, the first Chief Justice of India, Justice Kania said:

“The Supreme Court would declare and interpret the law of the land, and with the tradition of Indian judiciary, it would work in no spirit of formal or barren legalism, within the limits prescribed by the constitution. The court, as part of the federal system and as the defender of democracy, is responsive to the changes in Indian society”.

Responding to the role expectations, the supreme court has given both a technical and expansive interpretation of the fundamental rights, and has issued various directions and guidelines to uphold human dignity and human rights of the people of India and more so of the weaker sections such as women, children, bonded labour, Scheduled Castes/Tribes/ other socially and educationally backward Classes (OBCs). The courts have been sensitive to the changing socio-cultural and politico-economic milieu of the country. The growing public support to the activist role of the judiciary has further strengthened the position of pre-eminence that the judiciary has come to occupy among the three organs of the government. It has, unlike the past, been entertaining a number of petitions, which involve, apart from legal, issues that relate to the administration, governance and policy.

In the recent few decades, Indian judiciary has been conscious to the issues of good governance if it means a simple, fast, responsive, accountable and empathetic governance. The judicial approach, as evidence from several judgements, signifies its growing concerns for an efficient and effective governance resulting in the improvement of the living conditions of the members of the society by creating and expanding

opportunities and access to growth and development of all, provide an equal and equitable environment. The keen interest of judiciary in the promotion of the principles of good governance is also exhibited in the pronouncements focusing on Rule of Law, human rights, fundamental rights and gender justice and from the directions and guidelines issued from time to time on matters ranging from police and prison reforms, electoral reforms, uniform civil code, rights of the child and the women, affirmative action in favor of the Dalits and the deprived like the S/Cs, S/Ts and the OBCs to environmental jurisprudence that has given a new meaning to the right to life as well as reconciliation between development and protection of the ecology and environment. Many of the judicial judgements are known for the clear interest of the judiciary in the processes and practices of pursuing the goals of sustainable human development and creating an enabling environment. In this endeavor, the judiciary has not confined itself to interpreting the law and the constitution only. If it found laxity on the part of the Executive to implement the judgment, judiciary has also not hesitated to direct and monitor the Executive to not only submit the action plan but also submit the progress report of the action taken and the outcomes of that action. For instance, judiciary has directed the governments at the central, state and local levels to implement the laws made by the legislature for the welfare and development of the people like assuring a clean environment free from pollution, accident free modern public transport system, protection of public health and ensuring efficient and effective solid waste management, planned development of the cities for prevention of urban chaos.

There have been controversies and debates regarding the emerging social role being played by the judiciary as it is termed as judicial over-reach and transgression of the principles of separation of powers and a delicate jurisdictional balance between the three organs of the government because such directions come to mean an intrusion in the domains of the legislature and the Executive. It is a fact at the same time, that judiciary has earned an increasing public trust and support for its active role in course correction of the government. Frustrated with the indifference to and negligence of the present and future needs of the society, inefficiency, ineffectiveness and corruption

on the part of the public services and the politicians, people see a ray of hope in the responsive judiciary, which is seeking to fill the gaps between promise and performance. There is a common belief that rule of law and the liberty and equality of the people is in place because of the engaging and independent judiciary, which has acted as the ardent defender, preserver and protector of the constitution and the law. It has stood against the violations of fundamental and human rights as well as against the discrimination, abuse of power by any organ of the state and arbitrariness in administration. Judiciary has come a long way and made significant contribution in ensuring better public governance. It will not be an exaggeration to state that there is no social, economic or political area of governance that has not been influenced directly or indirectly by the judiciary.

The main areas of social transformations are the issues relating to social justice with a special focus on women and the children, fundamental right to life, accountability in public governance including police reforms and reforms in prison administration and environmental adjudication. This transforming role has been examined from the point of view of the attitudes and approaches of the judiciary towards the emerging social identities and conflicts in the context of emerging competitive politics and political pluralism, criminalization of politics and manipulative and populist politics as well as the emerging democratic pressures on the government to deliver goods and services to the people honestly and efficiently. The increasing demands and pressures for inclusive growth and change have also brought on to the field new players and stake holders in the political arena. Independent media has been able to expose the violations of human rights and the fundamental rights by or at the behest of the state, generated new consciousness among the marginalized groups. The Non-governmental organizations have been playing very important role in inviting the interference of the judiciary if the state intrudes and violates the rights of the poor and the weak. The acceptance or evolution of the concept of Public Interest Litigation has further enhanced the efficacy of the society to question the arbitrary use of authority. It has also given a weapon in the hands of the people to force, through the judiciary the Executive to

take action in the areas where they are required to do so. An effort has been made here to provide a summary of the role performance of judiciary in India.

The lesson first refers to the pre-emergency period of 1950 to 1977 followed by a discussion on the post emergency role during the period 1977 till the present day. The courts in this period went beyond the literal meanings of the provisions of the constitution of India to take up the spirit of the constitution into account while interpreting the law of the land.

2.4.6.2 Role of the judiciary during 1950-1977

This period as mentioned earlier was a period when the government was eager to redeem its pledge to the people to provide them relief from hunger, poverty, unemployment, ignorance, illiteracy, disease etc and to honor the constitutional commitment to prevent the concentration of national wealth in the fewer hands and the judiciary was there to not only reinforce democracy and empower people to carve out for themselves the ways of pursuit of good life within the constitutional framework but also to question the tyranny of the parliamentary majority and protect people from ills of governance. The judiciary started taking a rigid view of the powers of parliament vis-à-vis fundamental rights, specially the right to property, equality and freedom. In the aftermath of independence and commencement of the constitution, several state governments undertook the exercise of equitable distribution of rural wealth aiming at distributive justice. It was also an attempt to relieve the poor landless tenants and the weak from the exploitative conditions prevailing in the rural areas. The state governments pursued these goals by enacting land reform Acts like abolition of Zamindari Acts, Tenancy Reform Acts and Land Ceilings Acts. However, the judiciary declared many Zamindari Abolition Acts as null and void on the ground that they either violated right to equality or right to freedom or right to property. In order to overcome the effects of these judgments, the Parliament passed first amendment to the constitution inserting Article 31(A) and 31 (B) and also created a new schedule (ninth Schedule) in the constitution. This schedule was created to exclude the judiciary from the power of

judicial review of any law passed and placed in this schedule. Judiciary was seen as taking an elitist view and ignoring the common cause. The egalitarian philosophy contained in the preamble and Directive Principles of State Policy were said to have been ignored by it. In other words, the judiciary's role was perceived as individualistic and not communitarian. It may be at the same time admitted that the court took a narrow view of the term law mentioned in Art.13(2) to mean only an ordinary law. It kept constitutional law outside the meaning of the term law as used in Art.13(2). Therefore, the constituent power of the parliament could be legitimately exercised to amend or limit fundamental rights or make any changes in the constitution. The judiciary refused to enter into the territory of political debates or policy discourses and accepted the supreme power of parliament to make laws and policies as per letter of the constitution. This situation prevailed till 1967 almost uninterrupted when the judiciary changed its stand and interpreted Art. 13(2) in now a famous Golak Nath case to say that parliament had right to amend the constitution except the Fundamental rights. Thus Art. 13(2) were taken to include the constitutional law also. Thus judiciary engaged itself in limiting the legislative role of the parliament. By this approach, the judiciary, one could infer, sought to play the legislative role itself. This is what was implied in the following observation made by Justice K. Subba Rao:

“Articles 32, 141 and 142 are couched in such wide and elastic terms as to enable this court to formulate legal doctrines to meet the legal ends of justice. To deny this power to the Supreme Court on the basis of some outmoded theory that the court only finds the law but does not make it is to make ineffective the powerful instrument of justice placed in the hands of the highest judiciary of this country”.

This decision was criticized as retrograde, reactionary, and anti-catalytic to social change and a roadblock in the way of restructuring the social-economic structure of Indian society. Several judicial scholars, legal practitioners, the media and the members of the public termed these judgments as unnecessary and unwarranted interference in the political field. Many voice were raised to pack up the judiciary, as was the case in the USA at the time of judicial approach to the New Deal Programme of the then US

President Roosevelt. There was talk of having a committed judiciary. Such demands did not have any changing impact on the judicial stance in the Bank Nationalization case and the Removal of Privy Purses case that were declared ultra vires of the constitution on the ground that no law could abridge or abrogate or take away the fundamental rights. Both these legislations were termed as acts of transgression of the rights to equality (Art. 14), freedom to carry on any business or trade or profession (Art. 19(1) (f) and right to property (Art. 31) .

The question of unbridled constituent power of parliament was again examined by the judiciary in *Keshavanand Bharti v. state of Kerala* in 1973 when 24th constitution amendment Act was challenged in the court. This amendment added Art. 31(C) in the constitution and also put amendment outside the purview of the definition of law contained in Art. 13. The judiciary was precluded from undertaking judicial review of any amendment on the ground that it was violative of fundamental rights. The Supreme Court, partially revising its verdict of *Golak Nath* case, held that parliament could amend any part of the constitution including fundamental rights, but it could not amend the basic structure of the constitution.

Parliament enacted 42nd amendment in the constitution and inserted clause 4 and 5 which provided inter alia as follows: Clause 4 “ No amendment of this constitution, including the provisions of part III, made or purporting to have been made under this Article whether before or after the commencement of section 55 of the constitution (Forty-second amendment) Act, 1976 shall be called in question in any court on any ground” . And Clause 5 states, “For the removal of doubts, it is hereby declared that there shall be no limitation whatever on the constituent power of Parliament to amend by way of addition, variation or repeal the provisions of this constitution under this Article”.

The judiciary declared these two clauses as invalid in (*Minerva Mills Ltd. V. Union of India*) because they excluded power of judicial review, which is a basic feature. Similar view was taken by the judiciary in other cases like *Indira Gandhi v. Raj Narain*, *Sampath v. Union of India*; *Waman Rao v. Union of India* and *Bhim Singh ji v. Union*

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of India also. Elsewhere, judiciary took a flexible, pragmatic and problem solving approach to the issues brought before it. For example, on questions of liberty and freedom, it had upheld almost fully the power of the state to regulate, to make arrests under preventive detention, or making arrests under Art. 21.

In the same way, the courts had opted for a balancing approach while deciding controversial issues like Kerala Education Bill (1958), the Cow Slaughter Case (1958-61), NCERT case relating History books controversy or views on Hindutva or cases relating to controversies over religious endowments (1954-64) denoting its eagerness to find Indian answers to Indian situations. There began some rethinking on the part of the judiciary on the issues of social architecture and reengineering that was evident in the judgment relating to the rights of the labor and the workers as well as secularism. This also divided the judges into two categories: those who were committed to change or those who followed the principle of balance between law and development and those who ever ardently in favour of defending the constitution strictly in terms of the letter of the constitution. One can even say conservative v. progressive judges. Mrs. Indira Gandhi further used the power to appoint judges to have a socialist court to bid her ideological agenda. The judges who played an oppositional role to the government, for example justices Hegde, Shelat, Grover, Khanna were superseded when it came to appoint a Chief Justice of India. It is true that Mrs Gandhi was criticized by the opposition and those who loved democracy based on the principles of limited government, respect to dissent as much as the right of the majority to prevail. Even so it is equally true that her trusted judges like Chandrachud J. fully supported her moves to put the opposition leaders and other social activists behind the Bar and none of them was entitled to bail as a matter of right under Art. 21 that was suspended during the national emergency.

It will not be out of place to mention that the judiciary has taken not much different stance on other matters affecting the social relations in the society than it had taken on the matters affecting right to property earlier. On the question of gender equality and gender justice, the approach of the court has been found wanting in several judgment

when the accused of rape, for instance, were acquitted by the court because it refused to completely rely on the statement of the victim in that regard since there was no corroborative evidence. Environmental concerns were hardly on the judicial agenda. The courts were satisfied with their role of a mason or a plumber rather than striving for the role of an architect.

In sum, one can conclude that the role of the judiciary in the first 30 years was confined mainly to work for a limited government, to defend the fundamental rights and more of the right to property, respect the principle of checks and balances provided in the Indian constitution explicitly or implicitly, generally refraining from political or policy making activity and upholding this as a right of the legislature or the executive. The approach had been mainly of self restraint and remained, more or less, impervious to the dominant political discourse or policy domains around and remained unaffected by the wind of change blowing across the country and was able to work in a manner unintruded by the 'social ambiance' of its operation.

2.4.6.3 Role of the Judiciary as a change agent or a social architect - 1977 to the present

A clear change/ shift in judicial thinking is visible in the post-emergency period. This could be the result of a change in the political regime for the first time after independence (Congress' monolithic rule was ended by return of the Janata Party to power at the centre) or it could also be the result of the realization by judiciary that it faltered during the emergency and failed to respond to the demands of democracy and change. The post emergency enquiry by the Shah Commission had exposed the excesses committed by the administration as well as the abuse of authority for personal political gains by ruthless, arbitrary, arrogant, power hungry and accountable to none than to the political masters in the government bureaucratic and political set up of the day. These could have reminded the judiciary of the role commitments charged on it by the constitution. How authoritarianism could be imposed even in a democracy by misusing the constitutional law was documented by various reports on the pre-emergency performance of the government. This could happen again, if the judiciary did not

assert its legitimate role to ensure a responsive and accountable system of governance in the country. That it shall have to play a role not of merely an institution of the state but that of an institution of governance was perhaps the new thinking dawned upon the judiciary. The role change is also implied in the changing political, social and economic environment of government and governance in the age of liberalization, privatization and globalization. There are now conflicts even amongst the political class on the policy reforms and laws in this context. There is a fight between the changers and non-changers on the question of legal and economic reforms. Many a time these conflicts reach the judiciary for adjudication. How judiciary has responded to these conflicting ideologies is the question that draws attention of all interested in analyzing the processes of change.

This is also a period when issues like poverty, health, education, hunger, gender empowerment and the rights of the child and the labour are no longer local in nature. They are inviting global focus and response. The committee of nations is not only eager individually to tackle these problems, they are calling for collective and time bound efforts to deal with them. The millennium development goals are the pointer toward that direction. Several international covenants, declarations and resolutions have bound the nation states to enact their policies and programs to achieve their commitments made to these documents. Such an environmental change throughout the world naturally cannot leave the organs of the governments of individual nations to redefine and reinvent their respective roles. Judiciary in a democracy is no exception. Several new concerns have been added like environment that are influencing the role of the judiciary. It is faced with a challenge, like the legislature and the Executive is, to strike a balance between right to quality life, preservation of flora and fauna, religion and pollution free living, poverty and pollution and also between development and environment when the environmentalists, the human rights activists, the common men from the public or even the administration bring cases to the court with conflicting demands.

The government of India has initiated a number of legal and policy measures to meet

the global challenges in the new economic order. Structural adjustment programs, disinvestments policy in the public sector, corporatization of the public sector, and liberalization can be cited as some of them. Many of these measures have been challenged in the court of law. Whether, judiciary has accepted the role to itself of an alternate source of legislation or it has upheld the prerogative of the legislature/ Executive to take policy decisions is what has been scrutinized in the following pages. Crimes against women, questions of women empowerment, rights of the child and the issue of bonded labor and the response of the Executive to them have drawn judiciary into field of both law making and law implementation. Similarly, the police have been traditionally an executive arm of the state and historically have been one of the violators of human rights though ironically it is the police who are responsible to enforce rule of law and prevents Matsya Raj (Indicative of the rule of the powerful over the weak or the rule of the sea). An effective and impartial police is prerequisite to establish and strengthening public faith in the system. The issues of a service oriented and accountable and autonomous police in the light of the judicial response have been examined.

The new role being played by the judiciary has been enabled and supported by the evolution of a new practice known as public interest litigation or social action litigation in the country in the late 20th century India.. The courts have taken a different view of locus standi. Earlier only those person or persons could challenge the law or the policy of the government who were directly affected by that law /policy. In this scheme, the poor could not have access to justice because of the lack of required resources for the purpose. PIL has come to mean a mode of enabling the marginalized to have access to justice and a method to save them from exploitation and discrimination. In S P Gupta v. Union of India, 1981 (Supp) SCC 87 the court explained the concept as follows :

“Any act causing a legal wrong/ injury to a person/ persons by reason of violation of any constitutional/legal right or any burden is imposed in contravention of any constitutional/legal provision or without authority of law or any such legal wrong or legal injury or illegal burden is threatened and such person or group of persons by reasons of poverty, helplessness, or disability

or socially or economically disadvantaged position unable to approach the court for relief, then any member of the public can maintain an application for an appropriate direction order or writ in the high court under Art. 226 or to the Supreme Court under Art. 32 if there is a violation of fundamental rights of such persons/ class of persons”.

The PIL system has been an expanded form of judicial review and courts have been able grant relief to the prisoners, provide legal aid, direct speedy trial, maintenance of human dignity and insulate education and health from politicization and communalization.

Therefore, the judiciary introduced the concept of PIL to allow others to intervene on their behalf to ask for justice from the court and the courts have acted in public domain. This instrumentality with the judiciary has been operated to bring about change in laws and strengthen thereby stability because that is the essential process of progress and advancement of any society. Professor Roscoe Pound was right when he remarked, “Law must be stable, yet it cannot be standstill ...stability without change is degeneration and change without stability is anarchy”. This perspective further strengthened the use of PIL for provision of inclusive justice and makes the role of judiciary more demanding and effective in the recent years. Through the PIL, the judiciary is playing a more indulging and engaging role particularly because of the changes in the values and approaches of the functionaries at the helm of affairs of legislatures and the Executive. The coalition politics, that appears to have come to stay in India, has also made a difference to the role of judiciary and also the use of PIL even at the risk of being charged for usurping the functions of the legislature and the Executive and of running the country by its directives to the government and administration. But Anil Diwan articulates the need and importance of PIL in the following words, “The common citizens have discovered that the administration has become so apathetic and non-performing and corruption and criminality so widespread that they have no recourse except to move the courts through Public interest litigation (PIL), enlarging the field for judicial intervention. If a stray dog attacks a citizen’s

child or cattle roam the street or hospitals suffer from monkey menace and nothing is done, should not the court intervene? Should not the court be supported for playing the role of the Executive and of a problem solver? If there is better and responsible governance by the Executive, such occasions will not arise”.

As stated earlier, the High courts and Supreme Court in India have entertained innumerable petitions under PIL having relevance to fundamental/ human rights, accountability and good governance in administration, providing relief to the poor and the helpless. The other social issues are discussed below

Backward Classes of the Society:- In “Indra Sawhney v. Union of India”, AIR 1993 SC 477, the Apex Court has innovated concept of ‘creamy layer test’ for securing benefit of social justice to the backward class, needy people, and excluded persons belonging to ‘creamy layer.’

Bride Burning :- In “Paniben v. State of Gujarat”, AIR 1992 S C 1817, the Apex Court held that it would be a travesty of justice if sympathy is shown when cruel act like bride burning is committed. Undue sympathy would be harmful to the cause of justice. The Apex Court directed that in such cases heavy punishment should be awarded.

Bonded Labourers :- Bandhua Mukti Morcha v. Union of India”, AIR 1984 S C 802, is a good example of social ordering by way of judicial process. The Apex Court has tried to eliminate socio-economic evil of bonded labour, including child labour and issued certain guide lines to be followed, so that recurring of such incidents is eliminated.

Caste system and Judicial Process:- In “Lata Singh v. State of U. P.”, AIR 2006 SC 2522, the Apex Court has given protection to the major boy and girl who have solemnized inter-caste or inter-religious marriage.

Female Feticide and Judicial Process:- Leading to unhindered female infanticide affecting overall sex ratio in various states causing serious disorder in the society. In “Centre for Enquiry into Health and Allied Themes (CEHAT) v. Union of India”, AIR

2001 S C 2007, the Apex Court has held that despite the PNDT Act being enacted by the Parliament five years back, neither the State Governments nor the Central Government has taken appropriate actions for its implementation. Hence, directions are issued by the Court for the proper implementation of the PNDT Act, for eliminating this Social evil.

Gender justice and the Supreme Court: Upliftment and development of women has been at the centre of constitutional mechanism as well as of the politicians, the media, the civil society institutions and the judiciary. Various provisions of the constitution like right to equality contained in the Articles 14, 15 and 15(3), 42,45, 46 and the provision relating to 33.3 percent reservation for women in the offices and the membership of the rural and urban local bodies aim at achieving the goals of empowerment, welfare and development on equal footing of women. General Rural and urban development schemes and programs enacted and implemented through various development plans and women and child specific programs in particular since independence were indicative of the political commitment to bring about change in the social and economic status of women. The critical social change through social equality between man and woman was also attempted through social reform laws so as to remove social disabilities suffered by Hindu women in matters like marriage, divorce, succession, adoption and guardianship. The judiciary compensated for the inadequacies of these laws. At the same time, political and electoral compulsions prevented the political masters from attempting similar reforms in the personal laws of the Muslim and Christian communities and they continued to suffer discrimination and injustice, despite a clear constitutional mandate under Art. 44 to enact uniform civil code across the geography and communities of India.

In the context of gender justice and equality, the judiciary has attempted to venture into the critical role of a social reformer by upholding the rights of women and especially of the victims of subordination, suppression, and subjugation Judiciary has played this role both as a court of judicial restraint and as a progressive, dynamic, creative and proactive institution for social, economic and cultural transformation. The contribution

made by the judiciary to the improvement of status of women, protection of and access to fundamental rights of women and provision of conditions of dignity of life can be discerned from a number of decisions delivered while interpreting laws and the constitution.

It may be stated at the outset that courts in India have not always taken a uniform view while interpreting the social and criminal laws as well as the constitutional provisions in case of Hindu women. They have varied from conservative to progressive interpretation of the Hindu marriage / divorce/Succession or Adoption Acts. At times, the literal interpretation of these laws has impeded the aims of social change underlying the Act/s and the women have suffered injustice. For example, Hindu Marriage Act 1955 makes bigamy a punishable offence under section 494 of the Indian Penal Code, yet in (Bhau rao v.State of Maharashtra) (1965), the court said that any person entering a second marriage while the first marriage was subsisting could be held guilty if the marriage was celebrated with proper ceremonies and in due form i.e. properly solemnized. This judgement of the court was in fact regressive in so far as it sealed the fate of the hapless first wife. The man married second time willfully avoiding the rituals and ceremonies to abuse the law. Such an interpretation does justice to neither to the first wife nor to the second. Both women suffer. The second because she is not entitled to the share in the property of the person she married. The men exploit vulnerability of women who marry them because of poverty, pressure of the parents or deception committed by the men. Commented on the judgment in question, Jaya Sagade in the following words,

“It is respectfully submitted that the Supreme Court has relied on the letter of the law than its spirit and legislative intent. It has failed to realize the social realistic and plight of such second wives” However, on the question whether a Hindu Man could enter into a second marriage after converting to Islam while the first marriage is in subsistence, the court has adjudicated in the negative and insisted in prosecution under section 17 of the Hindu Marriage Act read with section 494 of the Indian Penal Code (see Sarla Mudgal Vs Union of India AIR 1995 Sc 1531 and Lily Thomas V Union of India AIR

2000, SC 1650).that a Hindu cannot be allowed to exploit religious freedom to marry another women cover after he converts to Islam was categorically decided by the supreme court in (Lilly Thomas v Union of India)as follows:

“ Religion, faith or devotion are not easily inter changeable. If a person beings to have adopted another religion just for some worldly gain or benefit, it would be religious bigotry, looked at firm this angle, a person who mockingly adopts another religion where plurality of marriage is permitted so as to resources the previous marriage and desert the wife, he cannot be permitted to take advantage of this exploitation as religion is not a commodity to be exploited. The institution of marriage under every personal law is a sacred institution, under Hindu law marriage is a sacrament both have to be preserved.”

The Court went on to observe that “The progressive outlook and the wider approach of Islamic Law can not be permitted, apparently indulging in sensual lust sought to be quenched by illegal means, who apparently are formed to be guilty of the commission of offence under the law to which they belonged before their alleged conversion.”

The Courts have also provided protection to women who were first tuned into intimated physical relationship and were married in a temple without completing the customary rites and ceremonies and leaving the women helpless even if she conceived a child of the man with whom she was married. That such a women was entitled to maintenance for her as well as the child was supported by court which observed:

“After not disputing the paternity of the child and after accepting the fact that marriage ceremony was performed, though not legally perfect as contended, it would hardly li in the month of the appellant to contend in proceedings under section 125 Cr.Pc that there was no valid marriage as essential rites were not performed at the time of said marriage. The provision under section 125 is not be utilized for defeating the rights conferred by the legislature to the destitute women, children or parents who are victims of social environment.”

However, the courts have taken a traditional and strictly, literal view of provisions of Muslim Women (protection of rights or divorce) Act, 1986, according to which a Muslim divorces women can claim maintenance under section 125 Cr.Pc only if her husband also opted for the appointer of this secular provision. This approach of the judiciary is in contravention of its earlier liberal interpretation of the Muslim Women Act where the courts accepted the argument that the provisions of section 125 of Cr.Pc were in addition to MWA and therefore, a Muslim woman could even alone, proceed either under MWA or Cr.Pc.

Gender Equality and Justice: Indian judiciary has applied the principle of equality of status, opportunities and justice while interpreting statutes, relating to women's development and empowerment. For example, the Orissa High Court in *Gayatri Devi Panjari v State of Orissa (AIR 2000 Sc1531)* upheld the policy of government to give preference to women while allotting shops on merit in addition to 30 percent reservation for women in that regards. The Court opined that reserved for any category cannot be taken as a ceiling and the government could prefer women over men even if there was reservation for women since the policy of reservations aims at ensuring the minimum while the policy of preference aims at facilitating the empowerment of the disadvantaged sections of the people.

In another case, the court extended the benefits of Maternity Benefits act 1961 to all women whether employed on regular, casual, daily wages or on muster roll basis. The Judge observed:

“A just social order can be achieved only when inequalities are obliterated and every one is provided what is legally done. Women, who contribute almost half of the segment of our society, have to be honored and treated with dignity at place where they work to earn their livelihood. Whatever be the nature of their duties, their avocation and the place where they work, they must be provided all the facilities to which they are entitled.”

The Supreme Court delivered a very significant judgment when it averred in *Velamuri Venkata Sirprasad V Kothuri Venkateshwarlu* that equality of status was integrated to the concept of basic structure of the constitution and was an important dimension of gender justice.

Uniform Civil Code: Indian judiciary has been very emphatic on the issue of enforcing Act 44 of Indian constitution that enjoins a duty on the state to enact uniform civil code. Judiciary is convinced that uniform civil code is the charter of equality and dignity to women in India, Specially belonging to the oppressed and suppressed sections of the women in the country. Though the court did not issue any directions to the Parliament or the executive to frame unified civil code, it made observation the various cases underlining the need for uniform civil code for the sake of national and social integration and justice. The court has remarked that there is no connect between freedom of religion as guaranteed under Art 25 and 26 and the personal laws. It is true, as recognized by the judiciary, that no Hindu can be forced to observe Muslim rites and customs or vice versa while performing the act of marriage, but the matters relation to divorce, maintenance inheritance and succession are secular activities that larger social / public interest.

Rights of the Child and The Supreme Court: The constitution of India present an impressive list of the rights of the child which enable the judiciary to play a creative, active and dynamic role to protect them. Art 15 (3) mandating constitutionally the class legislation like child labor prohibition Laws, Inveigle Justice Act and the children's Act etc., Art.23 and 24, Article 39 (e), (f), 42, 45 and 47. In(*M C Mehta vs. The State of Tamil Nadu*) the Supreme Court issued a number of directions for the abolition of child labor in Sivakasi Match Industries and further reiterated. The same is (*Bandhua Mukti Morcha vs. Union of India*) and also referred to Articles 3, 27(1),31 (1) and 36 of the convention on the rights of the child. The court declared primary education of children, the particular, and children from their poor, weaker section, Dalit and Tribes and minorities, as mandatory. The court also said that children should be completely kept off from slavery, trafficking, bonded labor, prostitution, pornography,

dangerous from of labor and the like, to begin with.

In (C Masilamani Mudalian vs Idol of Sri Swaminathswamy Swaminathaswami Theiukoil), the supreme court took resource to Articles 1,2(b), 3,13,14,15(2) of the convention on the Elimination of all forms of Discrimination against women to protect the rights of women and observed that “ Law is an instrument of social change as well as the defender for social change, Art 2(e) of the CEDAW enjoins the Supreme Court to breathe life into the dry boxes of the constitution.

Child Labor and the Supreme Court: Supreme Court has played a very vital role in addressing the problem of child labor in India along with the legislature and the executive. For instance, the supreme court in its judgment dated December 10,1996 in writ petition no 465 / 1986 issued the following direction regarding the withdrawal and rehabilitated of children working in Hazardous occupation and regarding the regulation and improvement of the working condition of children employed in non hazardous work. The judgment prescribed:

- Simultaneous action in all districts of the country
- Survey of identification of working children to be completed by June 10,1997
- Withdrawal of children working in hazardous industries and ensuring their education in appropriate institutions
- Contribution of Rs. 20000/- per child to be paid by the offending employees of children to a welfare fund to be established for this purpose
- Employment to one adult member of the family of the child so withdrawn from work and if that is not possible a contribution of Rs. 5000/- to the welfare fund to be made by the state government
- Financial assistance to the families of the children so withdrawn to be paid out of interest earnings on the campus of Rs 20000/25000 deposited in the welfare fund as long as the child is actually sent to the school

- Regulating hours of works for children working in non-hazardous occupation so that their working hours do not exceed 6 hours per day and education for at last for 2 hrs is ensured. The entire expenditure on education is to be borne by the concerned employer
- Planning and preparedness on the part of central and state government in terms of strengthening of the existing administrative regulatory / enforcement framework (concerning cost of addition manpower, training, mobility, computerization etc) implying additional requirement of funds.
- Pursuant to these directions, the union ministry of labor was asked to immediately release funds to the state government the order to enable them to conduct child labor survey. A conference of labor ministries of the States and union territories was also convened on Jan.22, 1997 to finalise an action plan for the implementation of the directions of Supreme Court. The chief Secretaries were assigned special responsibility of carrying out the survey on child labor.

Environmental Jurisprudence: This is another area of governance in which judiciary has taken upon itself the role of a regulator and also of a legislator. It has applied a number of approaches to protection of environmental laws and preservation of the ecosystem. Several times directions have been issued to the executive to take proactive and remedial measures to improve the environment for better societal life. These directions/ guidelines were based on the application of principles like ‘ public trust doctrine, polluter must pay for the clean environment, doctrine of absolute and strict liability, exemplary damages principle and the principle of inter-generational equity, the principle of sustainable development along with the existing laws of the land. (See Ratlam Municipal Council v. Vardichand, AIR 1980, SC 1622) The Supreme Court went to the extent of constituting its own committees on various issues and directed thereafter the concerned authorities to implement the recommendations of that committee in relation to direction to protect the Taj and its surroundings. In Godavarman Tirumalpad v. Union of India (1995) the decision of the Supreme Court impacted the forest policy of the government as well as centre –state relations. As the guidelines

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transferred the power of the states to denotify /dereserve national parks and wildlife sanctuaries to the National Board for Wildlife which was to be answerable to the Supreme Court. On matters of governance and decision making in this area, the court issued other orders as well.

Right to Life and the Supreme Court: The Supreme Court has given a very wide and comprehensive interpretation to the Article 21 of the constitution that says, “No person shall be deprived of his life or personal liberty except according to procedure established by law.” Initially, the court went by the letter of the proviso, but later it almost rewrote it. It introduced the concept of due process to the procedure when it said that the procedure should be fair, reasonable and just. (See *Maneka Gandhi v. Union of India*, AIR 1978, SC 597; *Gopalanachari v. Administrator, state of Kerala*, AIR 1981; *Francis Coralie Mullion v. Union Territory of delhi*, 1981 Cri LJ 306 and *Olga Tellis v. Bombay*

Municipal Corporation, AIR 1986, SC 108). Under the canopy of Article 21 of the Constitution, so many rights have found shelter, growth and nourishment. Taking it out of the negative restrictions on the action of the state, the judiciary imposed some positive obligations on it to protect the right and promote it the conditions facilitating the conditions of enjoying life. These obligations include the right to free legal aid, free medical aid to those who cannot pay for it, compensation in case of custodial death, right to shelter, right to privacy etc. This right has been extended to include right to life with dignity, right to clean environment, , right to pollution free water and air.

On the basis of this brief, though not exhaustive, review of the role of judiciary in the administration and governance of India, it may not be an exaggeration to say that judiciary has acted at different times as interpreter of law and while doing so has acted as a legislator and as an administrator also. Its role as an ‘anchor which holds us to the constitutional government, ever watchful guardian of the liberty of the people against transgressions by legislative or executive actions can be noted at every step of judicial performance. The judiciary’s role in enforcing the basic human rights of the poor and the deprived is making the judiciary a dynamic and important institution of

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the state. The courts for the purpose of imparting and reaching social justice to the common man are evolving new methods and innovative strategies and tools. Judiciary has created a big space for itself to assert its role in adjudicating controversies involving constitutional questions as well as issues relating to transparency, responsiveness and accountability of the government.

2.4.7 LETS SUM UP

India is one of the most successful democracies in the third World countries. In the success of democracy in India; Indian judiciary has played a very important role. It has provided the rule of law and constitutionalism in the country. Through its power of 3Rs and by innovation of mechanisms like PIL, it has tried to give voice to the rights of marginal sections of Indian society. Through the liberal interpretation of the constitution, SC has aided in the promotion of peaceful social engineering. SC's role becomes important when the other two branches of Govt. are becoming inactive and suffering from inertia. It is said that out of the three institutions of Government, SC is highly regarded and trusted by people. At times it is said that Indian political system has become judiciary driven Judiciary has fulfilled its envisaged role to a large extent. However t-much is to be done judiciary is becoming overhauling these are many issues that require reforms.

M.A. Political Science, Semester I
Course Title : Indian Political System
Unit – III : Political Processes

3.1 ELECTORAL SYSTEM : ELECTION COMMISSION OF INDIA AND ELECTORAL REFORMS

- Dr. Mamta Sharma

STRUCTURE

- 3.1.0 Objectives**
- 3.1.1 Introduction**
- 3.1.2 Role of Election Commission in Electoral Administration**
- 3.1.3 Limitations on the Powers of the Election Commission**
- 3.1.4 Electoral Reforms**
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- 3.1.6.1 Electoral Reforms Before 1996**
- 3.1.6.2 Electoral Reforms of 1996**
- 3.1.6.3 Electoral Reforms After 1996**
- 3.1.6.4 Electoral Reforms Since 2010**
- 3.1.7 Issues and Challenges Before the Election Commission**
- 3.1.8 Let Us Sum Up**

3.1.0 OBJECTIVES

After going through this lesson you will be able to:

- Understand the electoral democracy in India.
- Understand the role of Election Commission.
- Know about the Electoral Reforms
- Comprehend the role of Electoral Reforms measures adopted by the government to strengthen the democracy in India.
- Know the electoral malpractices which exists in the electoral democracy.

3.1.1 INTRODUCTION

Elections in independent India are conceived to be both the commencement and culmination of its parliamentary democratic process. The idea of parliamentary and electoral democracy was an exotic plan, when it was conceived in colonial India. However, it received sustenance and strength in the course of the national freedom movement in the country. In ancient India, the method of governance was entirely different. Except the early Vedic period, the status of the kings was hereditary, and the Samitis and the assemblies and the councils of the kings were aristocratic bodies, even in the republic. The village councils and caste panchayats on the other hand comprised village elders and notables and derived their authority from consensus rather than through a mode of election. Monarchical regimes were, therefore, the mainstay in ancient and medieval India. It was left to the British rulers to introduce the electoral idea in the country with the setting up of representative institutions. The final shape of the Election Commission has been a result of the original thinking visualized a sort of central electoral authority - one body to conduct election to the Parliament and each state to have its own set-up for similar purposes. The President of India was to appoint the Central Election Commission and the Governor to appoint a similar body for his state. The Draft Constitution of India had such a

conception of the apex level body. The superintendence, direction and control of all elections to Parliament and of elections of the offices of the President and Vice-President held under this constitution, including the appointment of election tribunals for the decision of doubts and disputes arising out of or in connection with the elections to Parliament, was to be vested in a Commission to be appointed by the President. His authority vested with the conduct of election is none, but a constitutional body, that is, the Election Commission of India.

India is constitutionally a socialist, secular and democratic Republic and the success of democracy depends upon free and fair elections. In continuance of the British legacy, India has opted for Parliamentary Democracy. Since 1952, the country has witnessed elections to the legislative bodies at the national as well as state levels. The electoral system of India is marked by many problems that have encouraged anti-social elements to jump into the electoral fray. Our system was largely free from any major flaw till the fourth general election (1967). The distortions in its working appeared, for the first time, in the fifth general election (1971) and these got multiplied in the successive elections, especially those held in the eighties and thereafter. The Election Commission has frequently expressed its concern and anxiety for removing obstacles in the way of free and fair polls. It has made a number of recommendations and repeatedly reminded the government the necessity so change existing laws check the electoral malpractices. The Government of India made several Committees regarding electoral reforms. Number of new initiatives have been taken by the Election Commission to cleanse the electoral process. The important among these are discussed below.

3.1.2 ROLE OF ELECTION COMMISSION IN ELECTORAL ADMINISTRATION

Election is a device which a modern State creates amongst its citizens a sense of involvement and participation in public affairs. It is through popular elections that the authority of government is clothed with legitimacy with elections, peaceful

transfer of authority is possible to the new leaders. So, a good electoral system is therefore, the basic principle of genuine representative government. However, it depends on how the electoral system operates i.e., whether elections are conducted efficiently and impartially by competent administrators free from political bias. If there exists no confidence over the verdict of the ballot box, it may destroy the faith of the public in the democratic process and may tend to bring it into discredit.

Powers and functions of Election Commission of India

The powers and functions of the Election Commission of India are derived from Article 324 of the Indian Constitution, the legislation relating to the elections and the rules and orders issued under the Constitution or under the legislation enacted by the Parliament. The most essential requisite of free and fair elections is that the elections should be conducted by an independent and impartial authority who can act as a guardian of the entire election machinery. Clause (1) of art. 324 of the Constitution of India vests extensive functions in the Election Commission, that is, “Superintendence, direction and control”, for the conduct of elections. These powers of the Commission are prompted by supplementation of the Representation of the People Act, 1950, the Representation of the People Act, 1951 and Rules and Orders made there under. The plenary powers of the Election Commission under Article 324 of the Constitution are of recommendatory value. The Governor can still issue the notification under Section 15 of the Representation of the People Act, 1951 if the recommendation of the Election Commission is not in conformity with the political scenario of the State concerned. In such a contingency, if the Governor considers the elections to be imminent, it would be supplanting the provisions of Section 15 of the Representation of the People Act, 1951 and the powers of the Election Commission under Article 324 cannot be stretched so far. Under Article 174(1) of the Constitution, the Governor is required to summon the House of the Legislature of the State to meet at such time and place as he thinks fit, but 6 months should not intervene between its last sitting in one session and the date appointed for its first sitting in the next session. If the elections are postponed, compliance with the provisions of Article 174(1) of the Constitution of India would become impossible. The Election

Commission is under a constitutional duty to conduct the election at the earliest on completion of the term of the Legislative Assembly on dissolution or otherwise. If there is any impediment in conducting free and fair elections it can draw upon all the requisite resources of the Union and the State within its command to ensure free and fair election. Any man-made attempt to obstruct free and fair election is the antithesis to democratic norms. If and when the Election Commission finds the law and order situation difficult, it can only require a sufficient number of security forces to be deployed, but postponement of elections is hardly a remedy for that. It would be better if a mechanism is devised to settle such disputes which may arise between the Election Commission and the State Government or the Central Government. Besides preparation and revision of electoral rolls, the significant power of the Election Commission is to superintend, direct and control the conduct of elections. It is the solemn duty of the Commission to conduct elections in a free, fair and peaceful manner. In order to achieve this end, the Election Commission discharges multiple functions. The function of the Commission regarding conduct of elections begins from the day of the notification of election and runs upto declaration of results and during the entire process of elections the Commission remains vigilant and sees that the conduct of election is going on according to rules. Accordingly, the Election Commission is empowered to issue certain notification. But for the elections to the Lok Sabha and State-Legislature and Councils of Union Territories, the notification is issued by the President, or Governors or Administrators respectively. According to the Registration of Election Rules, 1960 and the conduct of Election Rules, 1961, the Election Commission of India has performed the following functions to discharge its duties freely and fairly:-

1) Preparation of electoral rolls

Article 325 of the Constitution lays down that there shall be one general electoral roll for every territorial constituency, the preparation of electoral rolls based on religion, race, caste or sex is forbidden. The preparation and maintenance of complete and accurate electoral rolls are essential

prerequisites for holding elections. Under Article 326 of the Constitution, the electoral rolls must be prepared correctly for all eligible voters irrespective of their religion, race, caste and sex to hold free and fair elections.

2) Conduct of Poll

Under section 30 of Representation of the People Act, 1951, the Election Commission is empowered to issue certain notifications in the official Gazette to fix the last date for making notification, date for the scrutiny of nominations, the last date for the withdrawal of candidatures, the date or dates on which a poll shall be taken and the date before which the election shall be completed and declaration of results.

- 3) **Recognition of Political Parties** The Election Commission has to register the political parties in accordance with the Provisions of Section 29A of R.P. Act, 1951. The final decision regarding the registration of political party shall be based on Sub- Section 29A of R.P. Act, 1951. The Election Commission has to act quasijudicially and has to follow principles of natural justice while registering the political parties.

4) Allotment of Symbols

Under Rule (5) of the Conduct of Elections Rules 1961, the Election Commission is authorized to specify symbols that may be chosen by candidates at elections in parliamentary and assembly constituencies and the restrictions to which their choice shall be subject, by publishing a notification in the Gazette of India and in the Official Gazette of each State. The power to issue Symbols Order is comprehended in the power of superintendence, direction and control of elections vested in the Commission.

5) Disqualifying of the Candidate and Voters

Under Section 10 A of the People's Representation Act, 1951, after every general election, each candidate is informed to submit his/her election returns.

If the candidate does not file election returns within a prescribed period, the Election Commission has the power to disqualify such candidate. Section 11 of Representation of the People Act, 1951 empowers the Election Commission to remove any disqualification list. Under Section 11B of R.P. Act, 1951, the Election Commission also has the power to remove disqualification of voter list.

6) Counting of Votes and Declaration of result

The votes may be counted either at one place for all the Assembly segments of a Parliamentary Constituency or at different places for the various Assembly segments under the supervision of the Assistant Returning Officer (ARO). The final result is collected by the Returning Officer at his headquarters and declared the results on the approval of the Election Commission.

7 Powers with regard to Electoral Personnel

Representation of the People Acts, 1950 and 1951 empowers the Election Commission to appoint Electoral Personnel and to get the necessary staff for the conduct of elections. Section 13CC of R.P. Act, 1950 provides that the Chief Electoral Officers of the States take Disciplinary action against the Erring Officials. It has also the power to issue instructions on the transfer of officials connected with election work during the period of elections.

8) Delimitation of Constituencies

Under section 11 of the Delimitation Act of 1972, the Election Commission is empowered to correct any printing mistake in any of the orders made by the Delimitation Commission.

3.1.3 LIMITATIONS ON THE POWERS OF THE ELECTION COMMISSION

The Election Commission has the Constitutional responsibility of superintendence, direction and control of the preparation of electoral rolls for elections and conduct of elections. This responsibility covers administrative powers, duties and functions depending on the circumstances. The Supreme Court has emphasized that there are certain limitations on the powers of the Election Commission. It has been held by the Supreme Court that the powers of the Election Commission under Article 324 of the Constitution are subject to any Act passed by the legislature and any rule or orders made there under.³⁶ We have seen in Mohinder Singh Gill vs. Chief Election Commissioner Case that the Supreme Court held that the Commission is bound to act in conformity with the provisions of law. In view of the statutory provisions, Mr. K. Ganesan, former Secretary to the Election Commission observed: “It is dangerous to claim any extraordinary and plenary powers under Article 324 to deal with matters already covered in the law even if provisions are found inadequate”. The Election Commission cannot overlook its obligation to preserve and maintain the rule of law, act bona fide and be amendable to the norms of natural justice. The Commission is, therefore, bound to act in accordance with rules of natural justice but the application of the rules of natural justice depends on circumstances and the matter is incapable of generalization. In the case of postponement of elections as we experienced in Assam and Jammu & Kashmir by the Election Commission, the Supreme Court has made it clear that the orders of the Election Commission are subject to judicial review and its powers are not “Unbridles”. The judicial powers enjoyed by the Election Commission should depend on the facts and circumstances of each case.

3.1.4 ELECTORAL REFORMS

Electoral reform is nothing but a revolutionizing change in electoral systems to improvise the process and progression of election as to fulfill the modern public desires are expressed in election results. That can include reforms of: Electoral

constituencies and election district borders, Ballot design, voting equipment, Scrutinizing, election monitoring by candidates, political parties, etc. The elections at present are not being held in ideal conditions because of the enormous amount of money power and muscle power needed for winning the elections. In addition, there are many other factors on the basis of which election is fought like poverty, casteism, communalism, criminalization of politics, poll violence, booth capturing, non-serious independent candidates, unemployment, etc. The politics of communalism and religious fundamentalism during post-independence has led to a number of separate movements in various states and regions of the country. Communal polarization has posed a serious threat to the Indian political ethos of pluralism, parliamentarianism, secularism and federalism. One of the most important issue is caste, there are cases of certain castes lending strong support to particular political parties. so political parties make offers to win different caste groups in their favour and caste groups also try to pressurize parties to give tickets for its member's elections. Caste based politics are effected the "unity" principle in the name of regional autonomy. Thus, caste as become a prime factor in winning elections and Candidates are selected not in terms of accomplishments, ability and merit but on the appendages of caste, creed and community. There are so many types of candidates like some are serious and some are non serious, these Non serious candidates are largely floated by serious candidates either to cut sizeable portion of votes of rival candidates or to split the votes on caste lines or to have additional physical force at polling station and counting centers. The misuse of official machinery takes different forms, such as use of government vehicles for canvassing, advertisements at the cost of government and public exchequer highlighting their achievements, disbursements out of the discretionary funds at the disposal of the ministers, etc. which gives an unfair advantage to the ruling party at the time of elections.

3.1.5 REASONS FOR ELECTORAL REFORMS

There are number of reasons may be discussed under this head. Out of those some are given below: 1) To make qualitative improvement in the legislator at all levels. 2) To provide for political stability which is very much threatened due to the era of coalition politics. 3) To promote values like democracy, secularism, morality, nonviolence, etc. and to keep out corrupt & selfish and inefficient leaders out of the race for power. 4) To check booth capturing, snatching of ballot papers, intimidation of voters & violence in elections. 5) To checkmate 3 “M”s – money, muscle and mafia power which has been in the increase in election after elections. 6) To prevent the 4 “C”s – criminalization, corruption, communalism & casteism in electoral politics. 7) To attend problems like defections and electoral rolls, etc.

3.1.6.1 ELECTORAL REFORMS BEFORE 1996

Lowering of Voting Age

The 61st Constitutional Amendment Act of 1988 reduced the voting age from 21 years to 18 years for the Lok Sabha as well as the assembly elections. This was done in order to provide to the unrepresented youth of the country an opportunity to express their feelings and help them become a part of political process. Deputation to Election Commission In 1988 , a provision was made that the officers and the staff engaged in preparation, revision and correction of electoral rolls for elections are deemed to be on deputation to the Election Commission for the period of such employment. These personnel, during that period, would be under the control, superintendence and discipline of the Election Commission. Increase in Number of Proposers In 1988, the number of electors who are required to sign as proposers in nomination papers for elections to the Rajya Sabha and state legislative council has been increased to 10 per cent of the electors of the constituency or ten such electors, whichever is less. This was done in order to prevent non-serious candidates from contesting frivolously.

Electronic Voting Machines

In 1989 , a provision was made to facilitate the use of Electronic Voting Machines (EVMs) in elections. The EVMs were used for the first time in 1998 on experimental basis in selected constituencies in the elections to the Assemblies of Rajasthan, Madhya Pradesh and Delhi. The EVMs were used for the first time in the general elections (entire state) to the Assembly of Goa in 1999.

Booth Capturing.

In 1989, a provision was made for adjournment of poll or countermanding of elections in case of booth capturing. Booth capturing includes: (i) seizure of a polling station and making polling authorities surrender ballot papers or voting machines (ii) taking possession of polling station and allowing only one's own supporters to exercise their franchise (iii) threatening and preventing any elector from going to polling station and (iv) seizure of the place being used for counting of votes.

Elector's Photo Identity Card (EPIC)

The use of electors' photo identity cards by the Election Commission is surely making the electoral process simple, smoother and quicker. A decision was taken by the Election Commission in 1993 to issue photo identity cards to electors throughout the country to check bogus voting and impersonation of electors at elections. The electoral roll is the basis for issue of EPICs to the registered electors. The electoral rolls are normally revised every year with 1st January of the year as the qualifying date. Every Indian citizen who attain the age of 18 years or above as on that date is eligible for inclusion in the electoral roll and can apply for the same. Once he is registered in the roll, he would be eligible for getting an EPIC. The scheme of issuing the EPICs is, therefore, a continuous and ongoing process for the completion of which no time limit can be fixed as the registration of electors is a continuous and ongoing process (excepting for a brief period between the last date for filing nomination and completion of electoral process) on account of more

number of persons becoming eligible for the right of franchise on attaining the age of 18. It is the continuous effort of the Election Commission to provide the EPICs to the electors who have been left out in the previous campaigns as well as the new electors.

3.1.6.2 ELECTORAL REFORMS OF 1996

In 1990, the National Front Government headed by V P Singh appointed a committee on electoral reforms under the chairmanship of Dinesh Goswami, the then Law Minister. The Committee was asked to study the electoral system in detail and suggest measures for remedying the drawbacks within it. The Committee, in its report submitted in 1990 itself, made a number of proposals on electoral reforms. Some of these recommendations were implemented in 1996. These are explained here.

Listing of Names of Candidates

The candidates contesting elections are to be classified into three categories for the purpose of listing of their names. They are (i) Candidates of recognised political parties (ii) Candidates of registered-unrecognised political parties (iii) Other (independent) candidates Their names in the list of contesting candidates and in the ballot papers has to appear separately in the above order and in each category these have to be arranged in the alphabetical order.

Disqualification for Insulting the National Honour Act

A person who is convicted for the following offences under the Prevention of Insults to National Honour Act of 1971 is disqualified to contest in the elections to the Parliament and state legislature for 6 years. (i) Offence of insulting the National Flag (ii) Offence of insulting the Constitution of India (iii) Offence of preventing the singing of National Anthem Prohibition on the Sale of Liquor. No liquor or other intoxicants are to be sold or given or distributed at any shop, eating place, hotel or any other place whether public or private within a polling area during the period

of 48 hours ending with the hour fixed for the conclusion of poll. Any person who violates this rule is to be punished with imprisonment up to 6 months or with fine up to 2,000 or with both.

Number of Proposers

The nomination of a candidate in a Parliamentary or assembly constituency should be subscribed by 10 registered electors of the constituency as proposers, if the candidate is not sponsored by a recognised political party. In the case of a candidate sponsored by a recognised political party, only one proposer is required. This was done in order to discourage non-serious people from contesting the elections. Death of a Candidate Earlier, in case of death of a contesting candidate before the actual polling, the election used to be countermanded. Consequently, the election process had to start all over again in the concerned constituency. But now, the election would not be countermanded on the death of a contesting candidate before the actual polling. However, if the deceased candidate belonged to a recognised political party, the party concerned would be given an option to propose another candidate within seven days.

Time Limit for By-Elections

Now, by-elections are to be held within six months of occurrence of the vacancy in any House of Parliament or a state legislature. But, this condition is not applicable in two cases: (i) Where the remainder of the term of the member whose vacancy is to be filled is less than one year; or (ii) When the Election Commission in consultation with the Central Government, certifies that it is difficult to hold the by-elections within the said period.

Holiday to Employees on the Polling Day

The registered voters employed in any trade, business, industry or any other establishment are entitled to a paid holiday on the polling day. This rule applies even to the daily wagers. Any employer who violates this rule is to be punished with a

fine up to 500. However, this rule is not applicable in the case of a voter whose absence may cause danger or substantial loss in respect of the employment in which he is engaged.

Contestants Restricted to Two Constituencies

A candidate would not be eligible to contest from more than two Parliamentary or assembly constituencies at a general election or at the by-elections which are held simultaneously. Similar restrictions are imposed for biennial elections and by-elections to the Rajya Sabha and the state legislative councils. Prohibition of Arms Entering into the neighbourhood of a polling station with any kind of arms 10 is to be considered a cognizable offence. Such an act is punishable with imprisonment of up to two years or with fine or with both. Further, the arms found in possession of the offender are to be confiscated and the related licence is to be cancelled. But, these provisions are not applicable to the returning officer, presiding officer, any police officer or any other person appointed to maintain peace and order at the polling station.

Effective Campaigning Period Reduced

The minimum gap between the last date for withdrawal of candidature and the polling date has been reduced from 20 to 14 days.

3.1.6.3 ELECTORAL REFORMS AFTER 1996

Presidential and Vice Presidential Elections In 1997 11 , the number of electors as proposers and seconders for contesting election to the office of the President was increased from 10 to 50 and to the office of the Vice President from 5 to 20. Further, the amount of security deposit was increased from 2,500 to 15,000 for contesting election to both the offices of President and Vice-President to discourage frivolous candidates.

Requisitioning of Staff for Election Duty

In 1998, a provision was made whereby the employees of local authorities, nationalised banks, universities, LIC, government undertakings and other government-aided institutions can be requisitioned for deployment on election duty.

Voting through Postal Ballot

In 1999, a provision was made for voting by certain classes of persons through postal ballot. Thus, any class of persons can be notified by the Election Commission, in consultation with the government, and the persons belonging to such notified class can give their votes by postal ballot, and not in any other manner, at elections in their constituency or constituencies.

Facility to Opt to Vote Through Proxy

In 2003, the facility to opt to vote through proxy was provided to the service voters belonging to the Armed Forces and members belonging to a Force to which provisions of the Army Act apply. Such service voters who opt to vote through proxy have to appoint a proxy in a prescribed format and intimate the Returning Officer of the constituency.

Declaration of Criminal Antecedents, Assets, etc., by Candidates

In 2003, the election Commission issued an order 15 directing every candidate seeking election to the Parliament or a State Legislature to furnish on his nomination paper the information on the following matters.

- (i) Whether the candidate has been convicted or acquitted or discharged in any criminal offence in the past? Whether he/she was imprisoned or fined?
- (ii) Prior to six months of filing nomination, whether the candidate is accused in any pending case, of any offence punishable with imprisonment for two years or more, and in which charges were framed or cognizance was taken by a court; if so, the details thereof
- (iii) The assets (immovable, movable,

bank balances, etc.) of a candidate and his/her spouse and that of dependents (iv) Liabilities, if any, particularly whether there are any dues of any public financial institution or government dues (v) The educational qualifications of the candidate Furnishing of any false information in the affidavit is now an electoral offence punishable with imprisonment upto six months or fine or both.

Changes in Rajya Sabha Elections:

In 2003, the following two changes were introduced with respect to elections to the Rajya Sabha : (i) Domicile or residency requirement of a candidate contesting an election to the Rajya Sabha was removed. Prior to this, a candidate had to be an elector in the state from where he was to be elected. Now, it would be sufficient if he is an elector in any parliamentary constituency in the country. (ii) Introducing open ballot system, instead of secret ballot system, for elections to the Rajya Sabha. This was done to curb cross-voting and to wipe out the role of money power during Rajya Sabha elections. Under the new system, an elector belonging to a political party has to show the ballot paper after marking his vote to a nominated agent of that political party.

Exemption of Travelling Expenditure

As per a provision of 2003 , the traveling expenditure incurred by the campaigning leaders of a political party shall be exempted from being included in the election expenses of the candidate. Free Supply of Electoral Rolls, etc. According to a 2003 provision , the Government should supply, free of cost, the copies of the electoral rolls and other prescribed material to the candidates of recognised political parties for the Lok Sabha and Assembly elections. Further, the Election Commission should supply specified items to the voters in the constituencies concerned or to the candidates set up by the recognised political parties.

Parties Entitled to Accept Contribution

In 2003 , the political parties were entitled to accept any amount of contribution from any person or company other than a government company. They have to report any contribution in excess of 20,000 to the Election Commission for making any claim to any income tax relief. Besides, the companies would get income tax exemption on the amount contributed. Allocation of Time on Electronic Media Under a 2003 provision , the Election Commission should allocate equitable sharing of time on the cable television network and other electronic media during elections to display or propagate any matter or to address public. This allocation would be decided on the basis of the past performance of a recognised political party.

Introduction of Braille Signage Features in EVMs

The Commission received representations from the various associations of visually impaired persons for introduction of Braille signage features in the EVMs to facilitate the visually impaired voters to cast their votes without the help of attendant. The Commission considered the proposal in detail and tried the Braille signage feature in the EVMs during the bye-election to the Asifnagar Assembly Constituency of Andhra Pradesh held in 2004. In 2005, it was tried in one of the constituency during the Assembly elections of Bihar, Jharkhand and Haryana. In 2006, it was tried in one of the constituency of the States of Assam, West Bengal, Tamil Nadu, Puducherry and Kerala during Assembly elections. In 2008, it was tried in all the assembly constituencies of NCT of Delhi during Assembly elections. The Commission introduced similar Braille signage features on the Electronic Voting Machines during the General Elections to the Fifteenth Lok Sabha (2009) and simultaneous Assembly elections in some States.

3.1.6.4 ELECTORAL REFORMS SINCE 2010

Restrictions Imposed on Exit Polls

According to a 2009 provision , conducting exit polls and publishing results of exist polls would be prohibited during the election to Lok Sabha and State Legislative

Assemblies. Thus, no person shall conduct any exit poll and publish or publicise by means of the print or electronic media or disseminate in any other manner, the result of any exit poll during the period notified by the Election Commission in this regard. Further, any person who contravenes this provision shall be punishable with imprisonment of upto two years or with fine or with both. “Exit-poll” is an opinion survey regarding how electors have voted at an election or how all the electors have performed with regard to the identification of a political party or candidate in an election.

Time-Limit for Submitting a Case for Disqualification

In 2009 , a provision was made for the simplification of the procedure for disqualification of a person found guilty of corrupt practices. It provided for a three-month time-limit within which the specified authority will have to submit the case of a person found guilty of corrupt practice to the President for determination of the question of disqualification.

All Officials Included in Corrupt Practice

In 2009, a provision was made for the inclusion of all officials, whether in the government service or not, appointed or deputed by the Election Commission in connection with the conduct of elections, within the scope of corrupt practice of obtaining any assistance by a candidate for the furtherance of the prospects of his election.

Increase in Security Deposit

In 2009, the amount of security deposit to be paid by the candidates contesting elections to the Lok Sabha was increased from 10,000 to 25,000 for the general candidates and from 5,000 to 12,500 for SC and ST candidates. Similarly, the security deposit in the case of elections to the state legislative assembly was increased from 5,000 to 10,000 for the general candidates and from 2,500 to 5,000 for the SC and ST candidates. This was done in order to check the multiplicity of non

serious candidates.

Appellate Authority within the District

In 2009, a provision was made for appointment of an appellate authority within the district against the orders of the Electoral Registration Officers, instead of the Chief Electoral Officer of the state. Thus, an appeal against any order of the Electoral Registration Officer of a constituency (during continuous updation of the electoral roll) will now lie before the District Magistrate or Additional District Magistrate or Executive Magistrate or District Collector or an officer of equivalent rank. A further appeal against any order of the District Magistrate or Additional District Magistrate will now lie before the Chief Electoral Officer of the state.

Voting Rights to Citizens of India Living Abroad

In 2010, a provision was made to confer voting rights to the citizens of India residing outside India due to various reasons. Accordingly, every citizen of India – (a) whose name is not included in the electoral roll (b) who has not acquired the citizenship of any other country (c) who is absent from his place of ordinary residence in India owing to his employment, education or otherwise outside India (whether temporarily or not) – shall be entitled to have his name registered in the electoral roll in the Parliamentary / Assembly constituency in which his place of residence in India as mentioned in his passport is located.

Online Enrolment in the Electoral Roll

In 2013, a provision was made for online filing of applications for enrolment in the electoral roll. For this purpose, the General Government, after consulting the Election Commission, made the rules known as the Registration of the Electors (Amendment) Rules, 2013. These rules made certain amendments in the Registration of Electors Rules, 1960.

Introduction of NOTA Option

According to the directions of Supreme Court, the Election Commission made provision in the ballot papers / EVMs for None of the Above (NOTA) option so that the voters who come to the polling booth and decide not to vote for any of the candidates in the fray, are able to exercise their right not to vote for such candidates while maintaining the secrecy of their ballot. The provision for NOTA has been made since General Election to State Legislative Assemblies of Chhattisgarh, Madhya Pradesh, Mizoram, NCT of Delhi and Rajasthan in 2013 and continued in the General Election to State Legislative Assemblies of Andhra Pradesh, Arunachal Pradesh, Odisha and Sikkim in 2014 along with the General Elections to the Sixteenth Lok Sabha (2014). The voters polled against the NOTA option are not taken into account for calculating the total valid voters polled by the contesting candidates for the purpose of return of security deposits to candidates. Even if the number of electors opting for NOTA options is more than the number of votes polled by any of the candidates, the candidate who secures the largest number of votes has to be declared elected. In 2001, the ECI had sent a proposal to the Government to amend the law so as to provide for a neutral vote provision for the electors who did not wish to vote for any of the candidates. In 2004, PUCL (People's Union for Civil Liberties) filed a petition seeking a direction to provide the necessary provision in ballot papers and EVMs for protection of the right to not vote for any candidate, secretly. The Supreme Court in 2013 held that the ECI may provide for the None of the Above (NOTA) option on EVMs and ballot papers.

Introduction of VVPAT

The Voter Verifiable Paper Audit Trail is an independent system attached with the EVMs that allows the voters to verify that their votes are cast as intended. When a vote is cast, a slip is printed and remains exposed through a transparent window for seven seconds, showing the serial number, name and symbol of the candidate.

Thereafter, the receipt automatically gets cut and falls into the sealed dropbox of the VVPAT. The system allows a voter to challenge his/her vote on the basis of the paper receipt. As per rules, the Presiding Officer of the polling booth will have to record the dissent of the voter, which would have to be taken into account at the time of counting, if the challenge is found to be false. The law for using VVPATs was amended in 2013. In 2013, the Supreme Court of India had permitted the ECI to introduce VVPAT in a phased manner, calling it 'an indispensable requirement of free and fair elections'. The Court had felt that introducing VVPAT would ensure the accuracy of the voting system and also help in manual counting of votes in case of dispute. VVPATs were first used in bye-election to the Noksen Assembly Constituency of Nagaland held in 2013. Thereafter, VVPATs have been used in selected constituencies during every General Election to State Legislative Assemblies. VVPATs were used in eight selected Parliamentary Constituencies in the country in the 2014 Lok Sabha Election. EVMs with VVPAT ensure the accuracy and transparency of the voting system. Persons in Jail or Police Custody Can Contest Elections In 2013, the Supreme Court upheld an order of the Patna High Court declaring that a person who has no right to vote by reason of being in jail or in police custody, is not an elector and is, therefore, not qualified to contest the elections to the Parliament or the State Legislature. In order to negate this order of the Supreme Court, the following two new provisions have been included in the Representation of the People Act, 1951: (i) The first provision expressly provides that by reason of the prohibition to vote (either due to in jail or in police custody), a person whose name has been entered in the electoral roll shall not cease to be an elector. (ii) The second provision expressly provides that a Member of Parliament or the State Legislature shall be disqualified only if he is so disqualified under the provisions contained in the Act and on no other ground. Consequently, the persons in jail or in police custody are allowed to contest the elections.

Immediate Disqualification of Convicted MPs and MLAs

In 2013, the Supreme Court held that chargesheeted Members of Parliament and MLAs, on conviction for offences, will be immediately disqualified from holding membership of the House without being given three months' time for appeal, as was the case before. The concerned Bench of the Court struck down as unconstitutional Section 8 (4) of the Representation of the People Act (1951) that allows convicted lawmakers a three-month period for filing appeal to the higher court and to get a stay of the conviction and sentence. The Bench, however, made it clear that the ruling will be prospective and those who had already filed appeals in various High Courts or the Supreme Court against their convictions would be exempt from it. The Bench said: "A reading of the two provisions in Articles 102 and 191 of the Constitution would make it abundantly clear that Parliament is to make one law for a person to be disqualified for being chosen as, and for being, a Member of either House of Parliament or Legislative Assembly or Legislative Council of the State. Parliament thus does not have the power under Articles 102 and 191 of the Constitution to make different laws for a person to be disqualified for being chosen as a member and for a person to be disqualified for continuing as a Member of Parliament or the State Legislature." The Bench said: "Section 8 (4) of the Act which carves out a saving in the case of sitting members of Parliament or State Legislature from the disqualifications under the Act or which defers the date on which the disqualification will take effect in the case of a sitting member of Parliament or a State Legislature is beyond the powers conferred on Parliament by the Constitution." The Bench held: "Looking at the affirmative terms of Articles 102 and 191 of the Constitution, we hold that Parliament has been vested with the powers to make law laying down the same disqualifications for person to be chosen as a member of Parliament or a State Legislature and for a sitting member of a House of Parliament or a House of a State Legislature. We also hold that the provisions of Article 101 and 190 of the Constitution expressly prohibit Parliament to defer the date from which the disqualification will come into effect in case of a

sitting member of Parliament or a State Legislature. Parliament, therefore, has exceeded its powers conferred by the Constitution in enacting sub-section (4) of Section 8 of the Act and accordingly subsection (4) of Section 8 of the Act is ultra vires the Constitution 36.” In order to nullify the above ruling of the Supreme Court, the Representation of the People (Second Amendment and Validation) Bill, 2013 was introduced in the Parliament. However, the Bill was later withdrawn by the Government.

Ceiling on Election Expenditure Increased

In 2014³⁷, the Central Government raised the maximum ceiling on election expenditure by candidates for a Lok Sabha seat in bigger states to 70 lakhs (from earlier 40 lakhs). In other states and union territories, it is 54 lakhs (from earlier 16-40 lakhs). Similarly, the limit for an Assembly seat in the bigger states was increased to 28 lakhs (from earlier 16 lakhs). In other states and union territories, it is 20 lakhs (from earlier 8-16 lakhs).

Photos of Candidates on EVMs and Ballot Papers

According to an Election Commission order, in any election being held after May 1, 2015, the ballot papers and EVMs will carry the picture of the candidate with his or her name and party symbol to avoid confusion among the electorates in constituencies where namesakes are contesting. The June 2015 bypolls to six seats in five states were the first elections where photographs of candidates were used on ballot papers. The Commission has noted that there are many cases where candidates with same or similar names contest from the same constituency. Although appropriate suffixes are added to the names of candidates in the event of two or more candidates having same name, the Commission considers that additional measures are required for removing confusion in the minds of electors at the time of voting. The photograph will appear between the name of the candidate and his or her election symbol. The Commission explained that if a candidate fails to provide the photograph, it “shall not be a ground for the rejection of the nomination

of the candidate”. The candidates will now be required to submit their recent photograph, either black and white or coloured, to the election authorities at the time of filing nomination. No uniforms would be allowed and caps and dark glasses have to be avoided.

3.1.7 ISSUES AND CHALLENGES BEFORE THE ELECTION COMMISSION

There has been universal appreciation of the Indian electoral system. People have hailed the manner in which elections have been conducted in India. But there are its weaknesses. It has been seen that in spite of the efforts of Election Commission to ensure free and fair election, there are certain shortcomings of our Electoral system and also there are some issues before election commission of India. The role of unaccounted money in elections has become a serious problem. The political parties collect funds from companies and business houses, and then use this money to influence the voter to vote in their favour. The business contributions are mostly in cash and are not unaccounted. Many other corrupt practices are also adopted during election such as bribing, rigging or voters intimidation, impersonation and providing transport and conveyance of voters to and fro the polling stations. The reports of liquor being distributed in poor areas are frequent during election. These are some illegal practices perform by the candidates during elections on the basis their money power. The dominant role of money in elections, which is taking newer and outrageous form, is deeply worrying. Instances of politicians paying for news coverage and bribing voters were widespread in 2009-2010 elections and even vote for note scam is one of the biggest examples of money power. On seeing these instances, politics seems to be the market of barter system that is note ke badle vote. As a result violence during elections has also increased. Though these activities do not take place very openly but are still in progress, there are many small town where these activities takes place before and even after the elections and there is nobody to oppose it. Generally the candidates are given tickets by the political parties on the consideration whether the candidate can muster the support of

numerically larger castes and communities and possesses enough resources. Even the electorates vote on the caste and communal lines. Communal loyalties of the voters are used at the time of propaganda campaign.

3.1.8 LET US SUM UP

The way our Legislature, the Lok Sabha, the Rajya Sabha and the State Legislative Assemblies function, it does not make us feel proud. One of the major problems with the Legislature is the number of unsatisfactory candidates who find their way to Legislatures. For example, it was reported by the media that more than half of the MLAs to the present state assembly election in Uttar Pradesh had noteworthy criminal records. It is quite common to put almost the entire blame for the current state of affairs on the so-called political class in the country. But those who blame them entirely overlook the fact that this political class emerges from the society only. They are not developed in vacuum or in isolation. It's the citizens who do not make use of the benefit furnished to them. Therefore, one way to change the behavior of the political class would be to change the system in which they have to operate. This is where electoral reforms become important. The Government believes that our political system is broken. We urgently need fundamental political reform, including a referendum on electoral reform, much greater co-operation across party lines, and changes to our political system to make it far more transparent and accountable. There should be double vote rights for SC and BC. Recall system should be adopted by government/ election commission there should check on advertisement and funding on election. Check on the rigging through muscle power and intimidation. The election commission should take a immediate action against the victimization of officers drafted for election duties.

Concerns for electoral reforms have been expressed from almost all quarters in India. With various committees for suggesting reforms in the electoral process being set up during the recent past, it is generally believed that the concerns towards electoral reforms are somewhat new in India. The Dinesh Goswami Committee was set up in 1990, the Indrajit Gupta Committee was set up in 1998 with the central

issue of election funding and the Law Commission submitted its 170 report in 1999 suggesting wide ranging reforms in the electoral process. In addition, the Election Commission of India has also taken initiative towards suggesting reforms in the election system since the 1980 and in its publication. Elections in India - Major Events and New Initiatives 1996-2000 suggested far reaching reforms in the electoral process. But one should take note that the concern for electoral reforms has not become fashionable only during the recent past. It was as early as 1974 that Jayaprakash Narayan set up the Committee on Electoral Reforms under the chairmanship of V M Tarkunde. Popularly known as the Tarkunde Committee, the report on electoral reforms was submitted in the year 1975. Besides these reports, there have been several studies, which suggested various kinds of reforms in the Indian electoral system, but the book by L P Singh (Electoral Reforms) published in 1986 has been perhaps the best of its kind. In spite of so many committees and reports, the concern on electoral reforms still continues mainly because, except for bringing some procedural changes in the electoral system, most of the suggestions of these committees have not been implemented by the government. The electoral reforms brought about in the recent past have been reducing the number of campaigning days from three to two weeks time, raising the ceiling limit of election expenditure for contesting the Lok Sabha Elections to Rs 15 lakh and for Vidhan Sabha elections to Rs 6 lakh, raising the security deposit for contesting the Lok Sabha elections to Rs 10,000 and for contesting the Vidhan Sabha election to Rs 5,000 in case of general candidates. For candidates belonging to the scheduled caste (SC) or the scheduled tribe (ST) category, the security deposit has been fixed for Rs 5,000-for contesting the Lok Sabha election and Rs 2,500 for contesting the Vidhan Sabha election. Under the revised rules, a restriction has been imposed on a candidate on contesting election for not more than two constituencies at one time. Under the new election law, election can be countermanded only on the death of a party candidate and not in case of the death of an independent candidate. As per the modified rules, a person convicted by the trial court attracts disqualification and even those who are released on bail during the pendency of their appeals against

convictions are disqualified for contesting elections. All these reforms have been given effect by enactments of the parliament.

M.A. Political Science, Semester I
Course Title : **Indian Political System**
Unit – III : **Political Processes**

3.2 ELECTIONS AND TYPES OF REPRESENTATION

- Dr. Mamta Sharma

STRUCTURE

- 3.2.0 Objectives**
- 3.2.1 Introduction**
- 3.2.2 Significance of Elections**
- 3.2.3 Elections and the process of Politicisation**
- 3.2.4 Representation**
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- 3.2.5 Rethinicing Electoral Representation**
- 3.2.6 Types / Forms of Representation**
- 3.2.7 The Crisis of Representation in India**
- 3.2.8 Rerisiting the Crisis of Representation**
- 3.2.9 Let Us Sum Up**

3.2.0 OBJECTIVES

After going through this lesson you will be able to:

- To know about the significance of elections
- To understand the process of politicisation
- To know about the concept of representation and the various aspects of representation
- To know about the forms of representation in India
- To explore the crisis of representation in India

3.2.1 INTRODUCTION

Elections are the life and blood of modern democracies. Through elections the political communication between the government and the governed is channelized. Elections provide an opportunity, to the general masses to get political education. Elections are primarily held to decide as to who would govern the country. For this the contestants issues their manifestoes and inform the public about their prospective programmes and agenda if they are elected. The manifesto also assesses the performance of the existing government, the party in power would highlight its achievements, while the opposition would display the negative aspects of the existing government. This also results in a government that is responsive and sensitive to the people's urges and aspirations. Elections are the only medium available in modern democracies through which a peaceful change in the government is affected. The electoral politics leads to increasing political consciousness in which the rich and poor, old and young, men and women all use their political right to vote and participate equally in the political process. In fact, there can be no democracy without elections.

3.2.2 SIGNIFICANCE OF ELECTIONS

India's extensive experience with democratic elections, cannot be ignored while formulating any perspective of the Indian Political system.

Elections in India provide the occasion for the widest degree of popular participation, they constitute the most important single arena for genuine competition between political groups. They are the principal agency through which recruitment to a significant part of the political elite is affected and the skills and resources which they especially call forth figure prominently in political life in general. Elections in India can now be seen not merely as useful indicators but actually as the events through which the party system and hence, in a measure, the political system achieve their evolution.

As in every other country where elections are an integral part of the political system, the electoral process in India has many distinctive features, and is carried on within a distinctive social and political environment. India rightly boasts of having successfully held the world largest democratic elections including twelve nation wide general elections and six delinked state assembly elections. This experience provides a fascinating case study of the most impressive efforts to graft the institutions of modern democracy into the politics of a mass society. This experience provides a fascinating case study of the most impressive efforts to graft the institutions of modern democracy into the politics of mass society. Elections in India, whether for local, state or national office, are massive spectacles. They serve important social and entertainment functions and they also mobilize millions of people into the political process. The study of elections would seem to be a useful approach to the study of the Indian political system and of India's political development. As long as the Indian political system survives in its present form, elections will continue to be among its essential characteristics. Elections are generally thought of as integral features of most modern political system and they are usually linked with political parties and other non ascriptive organizations and processes. In India, they are

both modern and modernizing agencies but also serve as links between modern and traditional sectors of Indian life and they are profoundly influenced by , as well as exert a profound influence upon, the nature of the Indian political culture. The Indian experience has proved that they can function in essentially traditional social system with an overwhelmingly illiterate population and still serve the modern political goals of integration, nation building and development.

On the whole one might say that elections are essentially modern political institutions and have had a modernizing impact on Indian political behaviour, but it would be almost equally true to add that far from contributing to the increasing modernization of Indian politics on a steadily accelerating scale, elections show some signs of becoming more traditionalized in the Indian setting. Elections have been a major instrument for the recruitment and emergence of this new elite. Thus they have served as a vehicle for bringing a more traditional elite into a more central role in the political system, increasingly at all levels.

Elections are a key activity around which a representative democracy evolves. The success and legitimacy of elections hinge on citizen involvement in voting, and also in the overall election process. Besides voting, citizen engagement in campaign activities can momentarily bridge the gap between the elite and the ordinary mass of citizens. Such engagement also prepares the ground for more participation by citizens in politics even when there are no elections. An earlier study indicates that voting, participation in election-related work and other social activities are overlapping circles for many citizens. Most democracies that do not mandate compulsory participation in elections experience the crisis of non-participation by many voters. In Switzerland, the turnout has hardly crossed the 50% mark. Another concern is paying attention to different categories of voters to examine who votes and who does not/cannot. In other words, the test of democracy is not merely in numbers but also in disaggregated data on social sections. In the Indian context, the 1990s witnessed considerable voter mobilization, based on both issues and social identity. A broadening of the political arena and intensification of political competition can

tributed to renewed interest of the disadvantaged sections in the political process. Most discussions of participation in the 1990s refer to this “democratic upsurge”, first systematically outlined by Yadav (1996). But analysis of the 2004 Lok Sabha election suggested this upsurge had slowed down . Yadav and Palshikar (2009) recently drew attention to not only a “saturation” of the democratic upsurge but also the inherent dynamics of liberal democratic politics. So, the celebration of participation notwithstanding, voter participation does not effectively bridge the gap between the voter and the political elite. Against the backdrop of this twin reality, it is not very surprising that our study of the 2009 Lok Sabha election underscores limited participation. This paper shows that the level of participation has mostly stabilised and that the norms of participation are dispersed across various social sections with some limited differences. However, before we turn to the issue of participation, let us look at the possible reasons why people do not vote and who the non-voters are. While 60% of the voters have been exercising their franchise in different elections, about 40% do not vote. Many attribute the non-voting to apathy and disinterest in politics. While it may be true that some voters do not vote due to apathy, the findings of the National Election Study 2009 indicate that non-voting was also because of faulty electoral rolls and the inability of some to produce proof of their identity, which is now mandatory for voting. Though there is no caste or community pattern to this, the lack of identity cards was more among rural than urban voters. Apathy or disinterest in the election was more among voters in metropolitan cities than those living in small towns and villages.

3.2.3 ELECTIONS AND THE PROCESS OF POLITICISATION

Viewed from any aspect, political, social or psephological, elections in India, whether at the national or state levels, have invariably been fascinating story and increased the process of politicization. Politically, these have contributed immensely to national cohesion and the growth of democratic temper. Socially, these have been the great equalizer, offering identical opportunities for exercising choice to the entire electorate, poor or rich, rural or urban, educated or illiterate, skilled or unskilled, male or

female. Psychologically, their outcome has mirrored the complexities of the world's largest democracy and helped to provide the most reliable insights into the voting behaviour of the population and the factors which influence its choice. More importantly, elections have become a way of life and an exercise of faith for the Indian masses. Successive elections have both enhanced and deepened the people's commitment to democracy. They have also made the Indian voter fully conscious of the value of his vote and the power of the ballot as the most potent instrument of change. The fundamental outcome of India's elections has been a process of power shift. Some of the underlying themes of the process of politicization are as following:

1 Democratisation of Polity

The democratization of polity through regular elections was high on the agenda of the constituent Assembly set up immediately after India's Independence in 1947.

2 Participation of Women

A remarkable feature of Indian elections is the participation in them of women. There are still nations in Asia, Africa and Latin America where women are yet to be emancipated enough to enable them to vote. The Indian woman has been more fortunate. The Indian woman has been more fortunate. This apart, the zeal for voting among women has been as strong as among men, and in a large number of constituencies, even stronger, judging from the turn out. It is not only in the participation in the voting process that the commitment of India's women to democracy is reflected, but also in the mounting enthusiasm and interest among women to secure representation in the country's legislatures. This rising fervor is due to the benefits of education reaching the interior areas of rural India. It is due to the strengthened sense of self confidence among women in their capacity to contribute at par with men to nation building.

3 Representation to weaker sections

From the very beginning, a constitutional provision has existed in India for allocation of seats proportionate to their population to some specific weaker sections of society, namely the scheduled castes and scheduled tribes. Constitutional provision for the weaker sections is yet another unique feature of Indian elections.

4 Mobilization of passive socio economic groups

Electoral competition has mobilized many formerly passive socio economic groups and brought them into the political arena. On balance, this is desirable outcome in a democracy. But give the state's limited capacities for redistribution of wealth and intensity with which electoral support has been courted. These mobilized and dissatisfied groups have further contributed to the growing political turmoil. A major example of this phenomenon is the growing caste conflict between the backward and the forward castes.

5 Populism and personalization of political power

One important method for preserving power has been populism, to establish direct contact between the leader and the masses and to undermine those impersonal rules and institutions designed to facilitate orderly challenges. Making direct promises that will affect as large a segment of the population as possible can enable a leader to mobilize broad electoral support. This process has undermined the possibility of establishing a system of impersonal authority based on the procedural rationality of democracy.

6 Intensity of class conflict

Competing elites have sought to mobilize ethnic groups who share language, religion or race. The groups vary like the Maharashtrians in Belgaum, the Sikhs in Punjab, Hindus versus Muslims in various parts of the country, the Gurkhas in West Bengal. Leaders manipulate primordial attachments so as

to gain access to state. If they are accommodated, the conflict often recedes. Accommodations, however, is not always possible.

7 Proliferation of political parties

Spilts or mergers have become endemic in political parties in India. This phenomenon has been more noticeable in the last several decades. And it has led to the proliferation of parties registered and recognize by the Election Commission. The more the spilts, the larger the number of parties in the fray.

Every election is a turning point in the history of India. The very fact that as a people, Indians renew their faith in the power of the vote through successive peaceful and fair polls, is a testimony of their entrenched belief in the efficacy of the democratic system.

3.2.4 REPRESENTATION

The topic of representation or political representation has become increasingly visible and important within contemporary democratic theory for two reasons. The first is a disjunction between the standard accounts of democratic representation, focused primarily on territorially based electoral representation, and an increasingly complex political terrain, which is less confined within state territoriality, more pluralized, and increasingly dependent on informal negotiation and deliberation to generate political legitimacy. These developments are driving renewed interest in the impact of electoral representation on broad patterns of inclusion and exclusion as well as in the new forms of representation that are rapidly evolving in non electoral domains such as administrative policy development, civil society advocacy and global civil society. Here we limit our attention to recent developments in democratic theory, which has been as much affected by these developments as other areas of political science. The second reason is indigenous to democratic theory, which has tended to follow JeanJacques Rousseau in assuming that representative democracy

is, at best, an instrumental substitute for stronger forms of democracy. Until recently, participatory and deliberative democrats paid little attention to political representation, leaving the topic to neo-Schumpeterian theorists who viewed democracy as primarily about the selection and organization of political elites. This consensus division of labor began to unravel about many years ago at the hands of those interested in broad patterns of inclusions and exclusions in political representation, particularly of minorities and women. The turning point was clearly identified by David Plotke, who wrote in 1997 that “the opposite of representation is not participation. The opposite of representation is exclusion. And the opposite of participation is abstention. Representation is not an unfortunate compromise between an ideal of direct democracy and messy modern realities. Representation is crucial in constituting democratic practices”. In addition, democratic theorists are increasingly appreciating the contributions of representation to the formation of public opinion and judgment, as well as its role in constituting multiple pathways of social influence within and often against the state. Importantly, these reassessments are leading an increasing number of democratic theorists both to re-engage problems of electoral design and to think about democratic representation beyond the ballot .

3.2.4.1 Democracy and Representation

‘Sovereignty’, wrote the great defender of direct democracy, Jean-Jacques Rousseau, ‘for the same reason as makes it inalienable, cannot be represented, it lies essentially in the general will, and will does not admit of representation. It is either the same or the other, there is no intermediate possibility.’ Other theorists like Levine, for instance, argues that democracy gives the right to citizens to choose critically among alternative options. However, since representative democracy does not allow citizens to participate directly in the processes of decision-making, all they can do is to confer consent upon the choices of others. This, concludes Levine, violates the basic precepts of democracy. In general the criticism of representative democracy focuses on the fact that popular sovereignty diminishes considerably, when citizens delegate the power of representing their opinions, their needs and their interests to

someone else. However, despite the often dire warnings of critics that representative democracy compromises the normative premises of democracy, it is representative democracy that has come to command the world ever since the institutionalization of democracy itself. Of course there are very good reasons for this, the primary being the sheer size and complexity of modern societies, which renders direct or face-to face democracy a remote possibility. Therefore, though it is true that representative democracy diminishes the autonomy of citizens, it is also true that people need to be represented, simply because direct democracy would demand the kind of time and energy that no one can afford in today's rushed world. Representatives, in other words, take over the task of bringing popular opinion to bear upon policy making. They also act as channels of accountability. Therefore, for better or for worse, representative democracy has become synonymous with democracy itself. Basically, representative democracy requires a third set of political agents to mediate between the first two sets: citizens and the state. At this stage of the argument four points might help to clarify the concept of representation. First, whereas the status of the citizen as the primary unit of political society is incontrovertible, the status of the representative is derivative. The representative is authorized to speak on behalf of a constituency because the members of a given constituency consent to the delegation of their right to participate in forums that make policy through elections. Second, it is important to note that the representative does not represent persons as such, but is charged with the duty of seeing that the interests of the constituents are adequately, competently and effectively represented in decision-making forums. To phrase this point differently, the representative proxies for those who are being represented. Third, the representative does not only represent interests, but is obliged to further these interests and to ensure that something is done about the pressing problems of the constituency, in the production of appropriate policies for instance. And fourth, the representative is accountable to the constituency for all acts of omission and commission. Therefore, citizens have, at least in theory, command over who they want to be represented by. They are also in a position to choose what particular issue or sets of issues they consider

worthy of representation. We can more or less assume that the political landscape of any given society will be necessarily dotted by the presence of a number of organizations like political parties, the media, social associations, neighbourhood groups, all kinds of professional lobbies, non-governmental and non-profit organizations, philanthropic bodies, social and political movements, and trade unions. All of them assert that they bring the perspectives of their constituents to bear upon the process of policy making. All of them claim to represent the interests of their members. All this does not exhaust the stock of political representation, because citizens have the right to resort to direct collective action – demonstrations, marches, petitions, or strikes, in order to present their demands to the state. However, political parties possess three advantages over other modes of representation. First, they represent all the members of a territorially delimited constituency as opposed to say trade unions, which by definition only represent their members or a particular class of professionals. Second, political representatives are accountable to their constituents via the route of elections, in contrast to, for example, NGOs, which are after all not directly responsible to the constituency they purport to cater to. Third, political representatives acquire legitimacy by the fact that they have been elected by the people whose interests they are charged with representing. For these reasons the widespread institutionalization of the competitive party system by the middle of the twentieth century appeared to have negotiated the dilemma of democracy.

3.2.4.2 Substantive Democracy and Representation

In India, in the immediate aftermath of independence, faith in the institution of the political party to represent popular aspirations, interests and needs was both established and validated by the fact that the freedom movement had been led by one such party i.e the Indian National Congress. Not only had the Congress Party, whose origins go back to 1885, mobilized vast masses of people in and through the freedom struggle (the scale of mobilization in India arguably matched that of China during the first half of the twentieth century), but it enabled the transformation of the ordinary Indian from ‘subject’ to ‘citizen’ with all the rights that the status of

citizenship carries with it. The institutionalization of the party system was paralleled by the institutionalization of formal democracy. India's record of political democracy in the 75 years since the adoption of the constitution remains unrivalled. Apart from the period between June 1975 and January 1977 when democracy was suspended via the imposition of internal emergency by Prime Minister Indira Gandhi, elections have been held on time, competitive party politics offer choices to the voters and ensure a peaceable transfer of power, and universal adult franchise allows a majority of adults to exercise popular sovereignty. Yet for some time now scepticism about India's claim to democratic credentials as well as hope in the project of democracy has haunted scholars. India's somewhat impressive record in establishing formal democracy has sadly enough not led to the establishment of a fuller version of democracy or substantive democracy. Substantive democracy, remember, is not only about electing candidates to power and thereby vesting them with legitimacy, it is about ensuring that every human being is treated with the respect that is due simply by virtue of being human. Treating individuals with respect means that ordinary citizens are provided with the basic goods that enable them to lead lives of dignity, that they are not compelled to beg for things that are rightfully theirs, and that they are not made to suffer for things over which they have no control, such as historically handed-down poverty, deprivation, ill-health and illiteracy. Prime Minister Nehru's speech on the eve of India's independence had after all promised precisely this transition from formal to substantive democracy 'the service of India', he was to say, 'means the service of millions who suffer ... it means the ending of poverty, ignorance and disease and inequality of opportunity'. But this transition has simply not happened. Consider India's somewhat weak record in social development. The country's position has slipped from 124th to 127th in the United Nations Development Programme's 2003 Human Development Report and it remains at 127 in the 2004 Human Development Report. Considering that the provision of basic needs is held to be the fundamental right of citizens in any self-respecting democracy, the question that confronts us is the following:

Why has the Indian state, which after all claims democratic credentials, been unable to resolve the fundamental and somewhat crucial problems that citizens confront in their day-to-day life? Why has it been unable to assure a life of dignity and freedom from want for a substantial section of its people? Is it because citizens have not translated these problems into compelling political claims upon the government? Is the indifference towards the meeting of basic needs due to the fact that the government is supremely unresponsive to the needs of the people? Or is it that political representatives have failed to represent these political claims adequately, competently and effectively, in the forums of policy making? The answer to the last question is perhaps of some import for any theory of representative democracy. For not only are representatives supposed to mediate the relationship between the state and the citizen, not only are they expected to represent the interests of their constituencies in policy-making forums, they are expected to 'stand in' for their constituents in these forums. To put it differently, the representative is expected to behave exactly as those who are represented would behave, if they were to directly participate in the forums that make policy. And we can more or less presume that if people were to participate directly in these forums, the first thing that they would do is to bring their interest in accessing goods that meet basic needs to bear on the processes whereby policy is made.

3.2.5 RETHINKING ELECTORAL REPRESENTATION

Electoral democracy is that subset of representative relationships in which representatives are authorized through election to represent the citizens of a constituency to act on behalf of their interests, and then are held accountable in subsequent elections. These relationships have been examined and reexamined by political scientists during the postwar period. What is new is the reemergence of electoral representation as a topic within democratic theory.

The central feature of democratic legitimacy, of course, resides in the electoral system. When we vote, we do two things at once. We contribute to forming a government or opposition, and we seek representation of our positions and

preferences. This means that elections are not just a race that some win at the expense of others, but a way of participating in the creation of the representative body, as is suggested by Plotke's (1997) argument that the opposite of representation is not participation but exclusion. It is worth noting here that different electoral systems empower this kind of participation quite differently, primarily by structuring the inclusiveness of the initial authorization and the strength of vote-based accountability. The key design choice is between electoral systems based on single-member plurality (SMP) districts and those that seek proportional representation (PR) through multi-member districts. From the perspective of representing residence, it is worth noting that PR systems are inherently less geographical than SMP. Within the boundaries of a district (which may be the size of the entire state, as in the cases of Israel and the Netherlands), voters determine their constituency at the time of the vote. In addition, because PR enables representation at lower thresholds (depending on the number of representatives within each district), PR systems tend to include a broader range of interests and identities than SMP systems. It is because of their greater inclusiveness and fairness that democratic theorists at least since Mill have favored PR over SMP systems. A government should reach decisions on the basis of debates among representatives of "every opinion which exists in the constituencies" in a body that reflects "its fair share of voices". Democratic theorists concerned with the representation of disadvantaged groups also prefer PR, simply because it's more inclusive logic increases the chances that disadvantaged groups will have representation. In addition, PR may result in more deliberative legislative bodies. Because the electoral system is less likely to produce governing majority parties, parliaments operating under PR are more likely to develop consensus forms of government. For similar reasons, the design of local electoral system particularly municipal systems is now back on the table. Electoral systems that produce more inclusion may have costs to one feature of representation. They often produce coalition governments that can diffuse accountability, as party platforms that were authorized by voters are subsequently compromised for purposes of governing. Likewise, because they separate powers,

presidential systems are often said to dampen responsiveness to citizens and diffuse accountability. In contrast, parliamentary arrangements based on SMP tend to provide citizens with stronger ex post accountability. These systems authorize governing majorities, which are then clearly responsible for governing as long as they retain the confidence of majority party members of the legislature. It is not clear, however, that inclusiveness and accountability necessarily trade off against one another, given the variety of possible accountability mechanisms. Some of these other forms of accountability are deliberative in nature, and depend on publics demanding that representatives provide accounts of their positions and decisions, even as they change. This increasing attention to discursive accountability is yet another reason democratic theorist has paid more attention to the impact of constitutional design on deliberative judgment. These issues have returned also in contemporary debates over fair representation. At this time, however, theories relating constitutional forms and electoral systems to new accounts of democratic representation remain underdeveloped. Because of the normative importance of proportionality to the democracy-justice relationship, a small but growing number of theorists are becoming interested in representative bodies that are randomly constituted.

3.2.6 TYPES/ FORMS OF REPRESENTATION

The forms of representation are:

Limited Votes Plan: This system also requires a multi member constituency with at least 3 seats. The voter is allowed to vote a smaller number of candidates than there are seats. For instance, if there are five candidates in the field for 3 seats, than a voter can only two votes in favour of two candidates. Thus minority parties become reasonably certain of electing one or two members. This method was used in Japan and Italy for elections in the lower houses. Limited vote plans does not work when there are many parties. It does not allow proportional representation. It secures representation only for fairly large minorities.

Territorial Representation: Now a days in most of the countries there is a system of territorial or geographical representation. The whole country is divided into geographical areas or constituencies and the voters usually elect one representative for every constituencies irrespective of their status.

Functional Representation:

A famous exponent of functional representation is GDH Cole. It is also known as occupational or vocational representation. The advocates of this system condemn the system of territorial representation. Most of the modern states form electoral constituency on the basis of geographical territory. All voters, irrespective of their occupation , residing within the same constituency. It is said that a representative, elected on the basis of territorial constituency cannot represent the varied and diverse interests of the people residing within the constituency. They proposes that territorial basis of representation should be replaced by occupational representation.

Proportional Representation

The system of proportional representation refers to multi member districts. A broad term describing various electoral formulas in which parties win seats in a legislature in proportion to their share of the vote cast. This refer to a variety of systems used for electing a legislature in which the number of seats a party wins is more or less proportional to the percentage of popular votes received. Proportional representation does not refer to a parliamentary system in which the executive branch of government is selected by the legislative branch. Proportional representation system are specifically designed to allocate seats in proportion to votes, in the hope that assemblies and governments will accurately reflect the preferences of the electorate. PR system are now the most frequently used electoral system in western democracies. All PR systems rely on multi member constituencies. PR systems are of two types : Party List system and Single Transferable Vote systems.

A **List System** : Under this system, the ballot contains separate lists of candidates of different political parties. The voter is required to mark one

list according to his or her choice. In some systems the voter is allowed to alter the content, the order, or both of the list itself. Various complicated method of calculating of seats per list are also used in this regard. Under party list systems, voters in an electoral constituency choose from among a group of candidates put forward by the various parties contesting an election. When the votes are tallied, each party is entitled to seat the number of members from its list that corresponds to its share of the popular vote.

B Single Transferable Vote System: in contrast to party list systems, STV systems emphasize the individual candidate rather than the party. As is the case in all PR systems, electoral constituencies using STV are represented by several members in an assembly. Voters are asked to rank order their choices among the candidates whose name appear on the ballot. When the ballots are counted, the first step is sorting them according to the first choice. In order to be declared elected, a candidate must obtain a certain threshold of the votes cast. Those candidates who obtain the threshold during the first stage of counting are declared elected and any votes they have received in excess of the threshold are redistributed according to the second choices marked. The second stage of counting involves the redistribution pf these surplus ballots, once more, those candidates achieving the threshold are declared elected and any surplus votes redistributed. This process continues until all vacant seats have been filled.

$$\text{Electoral quota} = \frac{\text{Total No. of Valid Votes}}{\text{Total No. of Seats}} + 1$$

If a 3 member electoral district has 1,000 voters, the number of votes required to win would be

$$\frac{1000}{3} + 1 = \frac{1000}{4} + 1 + 250 + 1 = 251$$

A candidate securing votes equal to or more than that of the quota is declared as elected. If some seats remain vacant the candidate having the least number of votes is eliminated and his votes are transferred to other candidates according to the order of second preference marked on the ballot paper by him. If some seats still remain vacant, the votes of the candidate with the least No. of votes are transferred to other candidates according to preference. This process continues till all the seats are filled up. Only those candidates who require a specific quota of votes are declared elected.

Descriptive Representation: it is also known as passive representation or symbolic representation, is the idea that candidates in democratic elections should be elected to represent ethnic and gender constituencies as well as other minority interest groups rather than the population at large.

Minority Representation: the issue of giving representation to minorities because of their religion, language, culture. Majority rule should not mean suppression of minorities. There are some devices to ensure minority representation in order to make political institutions truly representatives.

3.2.7 THE CRISIS OF REPRESENTATION IN INDIA

Deep-rooted skepticism about the ability of political parties to deliver what they promise in plenty during elections is not new to Indian politics. Mahatma Gandhi had on the eve of independence suggested that the Indian National Congress should disband as a political party, and that its members should proceed to engage in social work for the benefit of the people. More than conscious of the propensity of modern forms of politics to appropriate political agendas for narrow, partisan and solely power-driven ends, Mahatma Gandhi was to call for democracy without a centralized party system. However, despite Gandhiji's warnings, the leadership in the country proceeded to institutionalize representative government. By the early 1970s, the demand for a 'non-party' political process came up once again. Even as the socialist leader J.P. Narayan launched a massive political movement against

the authoritarian policies adopted by the central government under the leadership of Prime Minister Indira Gandhi, even as he led a major movement for 'total revolution' in the country, he was to call for a 'party-less democracy' for India. And many Indians concurred with his view, for not only had political parties failed to discharge their responsibility towards the people, they had rapidly degenerated into corrupt, unrepresentative, power-hungry machines. In short, in the space of a little over two decades, the Congress Party had lost its ability to inspire confidence that (a) as a political party it could represent the interests of the people, and (b) as a party that controlled the government it could satisfy the needs of the people. This is cause for some regret, for it was precisely the ability of the Congress to represent and accommodate all class, caste and group interests within its party organization that had been acclaimed by scholars. In fact, Rajni Kothari was to conceptualize the Indian model of democracy as the 'one party dominant system' or the 'Congress System'. For Kothari the USP of the Congress system lay in the fact that groups and individuals carried on the rather complex activity of negotiating and bargaining with the leadership within the party organization. This, Kothari seemed to imply, not only made the task of the parliamentary opposition redundant, it allowed various groups to represent the needs of their constituents and have their demands satisfied, within the framework provided by the party. In 1967 Myron Weiner, exploring the reasons for the success of the Congress Party, suggested that the reason why the party could maintain its hegemony was that it could find a place for all. It could for instance incorporate those who were dedicated to social service and who were moved by an egalitarian spirit. 'The spirit of self sacrifice and self-abnegation', he wrote, 'which had a long honourable tradition in Hinduism and which was reformulated by Gandhi has a place in the local Congress party'. But it could also provide a place for those who wanted status and power, for people who had specific grievances and demands, for those people who were looking for conviviality, and for those who were committed to national integration, economic development, secularism and representative government. In short, the Congress party represented, accommodated and incorporated a broad spectrum of caste, religious and regional

interests on the one hand, and classes on the other, for over 20 years after independence. That was the primary reason why the Congress Party was voted into power in the first three elections after independence with a substantial majority. In the first elections held 1951–52, the party polled 45 per cent of the total votes that had been cast, and secured 74.44 per cent of the seats in the popular house of the Lok Sabha (the parliament). In the second election held in 1957, the Congress Party obtained almost 48 per cent of the total vote share and 75.10 per cent of the seats in the Lok Sabha. And in 1962, the vote share of the Congress Party remained at 45 per cent and it secured 73 per cent of the seats in the popular house of parliament. Though the hegemony of the party was broken in the state legislatures in 1967, it was only in 1977 that the Congress Party lost power at the centre. The party came back to power at the centre in 1980, 1984 and 1991, but its vote share diminished considerably. In the 2004 elections for instance, though the Congress Party won power at the centre, it obtained only 27 per cent of the votes cast and secured only 145 seats in the Lok Sabha. In sum, the role of the Congress Party as a representative and as a mediator of public interest ebbed after 1967 in state politics, and after the early years of the 1970s in national politics. And it never completely recovered its monopoly in the period thereafter. This had some significant implications. For the decline of the Congress Party led to a generalized crisis of representation. The parties that emerged as an alternative to the Congress Party fared no better when it came to representing and accommodating the interests of the people. The Bharatiya Janata Party, which successfully challenged the Congress Party in 1996 at the national level, has not found it expedient to represent the marginal sections of society, and its support base remains confined to the upper classes and the upper castes. The regional political parties, which since the late 1990s have some presence at the centre, openly declare that they intend to cater to the interests of only one section of society, normally caste groupings, as in the case of the Bahujan Samaj Party, the Rashtriya Janata Dal and the Samajwadi Party. But even this limited form of representation does not seem to have taken the problem of basic needs seriously. If it had done so, then the provision of basic

needs would not have been seen as a big or the biggest problem by our respondents. The reasons for the decline of the Congress system and consequently for the decline of the system of representation are many and warrant detailed inquiry. Richard Sisson and Ramashroy Roy suggested, the period from 1966 to 1991 was marked by the 'organizational atrophy' of the Congress Party. During this time 'the party came to approximate a shifting reservoir of political aspirants, defined and selected by a strong and purposeful leader with unparalleled name recognition, and with demonstrated support within the electorate'. Even as, under the leadership of Prime Minister Indira Gandhi, and then P.M Rajiv Gandhi, power came to be centralized in the person of the leader, the ability of the Congress Party to address and negotiate popular demands dwindled greatly. In other words, the same Congress Party that had specialized in addressing, negotiating and resolving demands of different groups within the framework of its own organization became the captive of the leader. This expectedly proved disastrous for the capacity of the party to represent interests and meet demands adequately. 'The once impressive decentralized organization of the Congress party', wrote Bardhan in 1984, 'has largely disintegrated, the principle of popular representation at different organizational levels of the Party has been abandoned, and nominated to co-opted political operators and gangsters control much of the political machinery'. It is not surprising that in all this, individual members of the party came to be preoccupied with accessing the supreme leader more, and representing their constituents less. Secondly, the decline of the Congress Party took place at precisely the time when popular expectations of parties and of the government had risen dramatically. By the end of the 1960s people expected different things of the government than they did in the 1950s and in the 1960s. This was perhaps natural. In the two decades following independence the Congress Party was considered legitimate by a majority of the people, simply because the party and its leadership were associated with the freedom struggle, even though the promises that the leaders had made had remained unrealized. By the late 1960s, however, an entirely new generation which had grown to maturity in post-independence India, had no memory of the freedom struggle, and measured

the achievements of a party in terms of its ability to meet the aspirations of the people. Moreover, the rhetoric of Nehruvian socialism and the idea of planning for development had generated both enormous hopes in the government and a sense of entitlements. Driven by populist imagery and radical demagoguery, the people came to expect that the state and the party in power would deliver primary education and subsidize higher education, guarantee health, remove poverty, generate jobs and incomes, institutionalize inter-group equalities, remove inequalities within the group, and protect the needy, the vulnerable, and the poor. But the Congress Party, which at that time controlled both power and resources, had not only failed to emancipate the country from poverty, illiteracy, and unemployment; under the leadership of Prime Minister Indira Gandhi it became authoritarian in the garb of populism. And this led to restlessness in major parts of the country. By the late 1960s, simmering discontent came to pervade large parts of the country as groups mobilized to target an unresponsive state and an equally unresponsive party system. Since the mid-1960s, wrote Atul Kohli, 'the surface manifestation of this process has been widespread activism outside of the established political channels that has often led to violence ... Below this surface lies an important cause of these political problems: disintegration of India's major political institutions, especially the decline of its premier political entity, the Congress party'. Since the Congress Party had lost its capacity to represent interests and resolve conflict, it just could not contain the explosion of political discontent through democratic means. Given the inability of the party to meet aspirations and resolve problems, new groups entering the political arena resorted to agitation and violence to press their demands upon the state. This was more than evident when in 1973 and 1974, political discontent spilled outside the channels provided by the party system and people, particularly students in Gujarat and Bihar, took to the streets. Even as disgruntlement coalesced rapidly under the leadership of J.P. Narayan to mount a challenge to the political system, Prime Minister Indira Gandhi – leader of the same Congress Party that had led the people into independence – imposed internal emergency, from 1975 to 1977. The emergency not only suspended representative democracy, it assaulted

civil liberties and froze political activism. The paradox, however, is that the emergency animated a wide range of social struggles. It is of some interest that these movements erupted in a space outside the sphere of party politics, reinforcing the belief that the party system was not very relevant when it came to representing political demands. As the decline of all institutions and particularly of the institutions of representative democracy gave rise to several mass-based political movements and grass-roots activism, scholars were to turn their faces away from the party and the state and towards civil society. D.L. Sheth, for instance, began to speak hopefully of a 'nonparty political process' in civil society. Similarly, Rajni Kothari, putting aside all expectations that the Congress Party or indeed any other party would deliver, came to vest his expectations in grass-roots organizations. By the 1980s, Kothari was to speak of the vacuum in the traditional superstructure of the liberal polity that was supposed to render it humane despite powerful trends that the real counter-trends are to be found not in the party system, not in the arena of electoral politics and of State power. In their place is emerging a new arena of counteraction, of countervailing tendencies, of counter-cultural movements and more generally of a counter-challenge to existing paradigms of thought and action. These counter-cultural movements, it is important to note, arose as a reaction partly to the failure of the state to deliver, and partly in response to the inability of accepted modes of representative politics to address deep-rooted demands for social change. 'By the late 1980s', wrote Omvedt, 'the predominant feature of Indian politics had become the "new social movements" of women, dalits, and low castes, peasants, farmers, and tribals, as well as ethnicity-based struggles for autonomy or independence on the periphery'. Given the non-performance of political parties, it is not surprising that the anticaste movement, the struggle for gender justice, the movement for civil liberties, for a sound environment, and against mega-development projects that typically displace thousands of poor tribals and hill dwellers, the movement against child labour, for the right to information, for shelter, for primary education, and for food, security have mobilized in civil society. The fact that vital issues related to livelihoods, to the fulfilment of basic needs, and for justice were not taken up by

political parties but by civil society organizations acted to propel hopes in civil society as an alternative to the non-performing state and an unresponsive party system. By the year 2000, it was estimated that grass-roots movements, social movements, non-party political formations, social action groups, movement-groups and in general non-party groups, numbered some 20,000–30,000. What we recognize today as movement groups, writes Sheth, ‘emerged and were consolidated in spaces made available to them by the decline of mainstream institutions of representative democracy like legislature, elections, political parties, and trade unions’. That most scholars came to favour civil society organizations over the political party is clear. Whether popular perceptions mirror this shift is unclear. We cannot assume that people stopped becoming members of political parties and became instead members of civil society organizations. Some people are members of both, some are members of one organization, and some are not members of any organization. People can support one organization at a time, or both at the same time or at different times. People can, for instance, belong to a women’s group and canvass for its agenda, and yet vote for a political party of which they are not a member, or perhaps not even an active supporter at election time, for reasons that are more strategic than ideological. However, when it comes to government policy the shift from reliance on party functionaries to civil society organizations, particularly NGOs, is more than visible. The NGO sector in particular came to be heavily involved in the execution of government policy, especially in the realm of social policy.

3.2.8 REVISITING THE CRISIS OF REPRESENTATION

The concept of representation has been found wanting in scholarly debates for a number of reasons. In addition to the problems mentioned above – the bureaucratization of political parties, an excessive preoccupation with acquiring power, and insensitivity to the needs and interests of those who are being represented – other shortcomings can be identified. Consider for one that both the act of representation and the representative tend to acquire a great deal of autonomy from what is being represented. This happens simply because the representative has to

aggregate plural and often conflicting interests in order to represent them. However, strict aggregation is just not possible, considering that most interests are bound to clash with one another and given the plurality of projects that people pursue. The representatives acquire enormous power to shift through articulated interests, select those that they consider worthy of representing, prioritize the agendas that appear most viable to them over others, and put them forward in the forums where policy is made. This really means that representatives have tremendous discretion to pick and choose between competing demands, filter these demands through the ideological prism of the political party of which they are members, or indeed manipulate these claims for partisan political ends. There is indeed a paradox, as Hannah Pitkin had suggested, which is embodied in the very concept of representation. Something is represented, but at the same time that which does the representing must have characteristics of its own. Pitkin had accordingly suggested that limits must be established on political representation in order to delimit its scope, for the constituents are also capable of independent judgment and are not just charges to be taken care of. Representatives therefore ought not to stray too far from the objective wishes of those they represent, and when they do persistently stray they are obliged to explain this to their constituents. In short we may be able to discern a slippage between the interests of those who are being represented and the act of representation. For this reason, the ability of representative democracy to address and negotiate popular demands has been particularly challenged by scholars who subscribe to participatory democracy. Other scholars go further in their critique of the practices of representation. They dispute the assumption that we can discover some 'objective wish' of the constituents, or some 'pre-political' or 'raw' opinion or interests, that can be used to distinguish between the interests of those who are represented, and the practices of representation. For it is undeniable that the representative possesses the power both to shape and constitute these demands in a number of ways. This is not new; for long it has been agreed that representatives do more than just represent in some 'mirror like' fashion an inchoate entity called public opinion. In the eighteenth century Edmund Burke, for instance, suggested

that the task of the party representative was wider than envisaged by the proponents of representative democracy. 'It ought to be the happiness and glory of a Representative, to live in the strictest union, the closest correspondence, and the most unreserved communication with his constituents' stated Burke. 'But', Burke went on, his unbiased opinion, his mature judgment, his enlightened conscience, he ought not to sacrifice to you; to any man, or to any set of men living. Representation may well be the constitutive and thus the decisive moment in the construction of the political will. It may be more about the play of power and dominance than about bringing the needs of people to bear upon policy. And citizens as well as their needs may well be constructed by practices of representation. There is nothing representative about representation, critics argue; and people who see the representative as the embodiment of democracy have, in effect, been short-changed. However, as our research findings show, it is difficult to believe that people's own ideas about what is their interest are completely constituted by the representative's notion of what these interests should be. If this were indeed the case, then our respondents would not have expressed a lack of confidence in the ability of all modes of representation, political parties, caste and religious groups, 'big men' and NGOs to solve their problems. If they were constituted by the practices of representation, it would almost be impossible for them to gauge or evaluate the adequacy of these practices.. Our findings tell us that people have indeed lost faith in the ability of political parties to represent their interests in having their basic needs met in decision-making forums. But this disenchantment with political parties has not led to the institutionalization of trust in newer forms of representation such as the non-governmental sector. In short, people (a) have little faith in any organization, whether it belongs to the political or to the civil sphere, to either represent them and their interests or to help them resolve their day to day problems, (b) they by and large are convinced that no organization is concerned with their problems, some of which are indeed severe because they pertain to the minimal conditions of life itself, (c) they would rather rely on personal associations in the neighbourhood or on their family to solve problems, and (d) with the help of their personal contacts or with the help of people

who are familiar, they would rather approach the government directly. It appears that citizens would prefer to establish direct contact with the government than rely on mediations that are provided by political parties and civil-society organizations.

2.3.9 LET US SUM UP

What are the implications of these findings, we may ask, for the state of representative democracy in India? The answer, of course, depends on how we conceive of the task of the representative in particular; and the purpose of representative democracy in general. If the tenets of representative democracy merely imply that (a) citizens authorize the representative to speak for them through elections, and (b) that the candidate who is elected has the legitimate power to participate in the making of decisions, then democracy in India scores well on both counts. At this level it has worked very well. In April–May 2004, 58.3 per cent of the electorate participated in the exercise to elect representatives to the lower house of parliament, a percentage that was only slightly lower than the voter turnout in the last general elections held in 1999. More significantly, the voters exercised their franchise to throw out the incumbent government (the National Democratic Alliance led by the Bharatiya Janata Party) and vote a new government in (the United Progressive Alliance led by the Congress Party). Political observers were to comment enthusiastically and ecstatically that once again the Indian electorate had proved that it is both discerning and astute. The results of the poll were indeed unexpected, defying as they did the prediction of most poll pundits, let alone the expectations of those who stood for elections. The resilience of Indian democracy and the maturity of the Indian voter has, not unsurprisingly, become a matter of some international acclaim. Yet whether the act of representation is only meant to elect a candidate to office, or whether it is only meant to bestow legitimacy on the candidate by the fact, is debatable. For an expanded concept of representative democracy is about enabling the participation of the ordinary citizen in the process of decision-making. Since direct participation has proved impossible in large and complex societies, the representative is expected to ‘stand in’ for those he or she represents. Representative systems accordingly can

be evaluated by the extent to which representatives are able to proxy for those that they represent, that is the extent to which they act in ways that approximate the ways citizens would act in forums of direct or participatory democracy. Second, political representatives must also stand in a relationship of accountability to those whom they represent. But if the citizens who we surveyed lack confidence in the ability of the representative to do something worthwhile about the pressing problems they are confronted with day after day, then representatives could not be performing their job too well. This is not to suggest that representatives never pay attention to the interests of their constituents, or that they should not be free to exercise their discretion on important matters. But it does mean that if representatives are mandated to pursue interests that are vital for the life chances of their constituents, then the least that they can do is to prioritize these issues over others and ensure that something constructive is done about these issues. On these counts, representative democracy has not done too well. The consequences of all this for our understanding of representative democracy in India are not slight. For one, since political parties seem to have failed to represent the basic interests of their constituents, the avatar of representative democracy that we find in India is a formal one, largely confined to successfully organized elections. Formal and legal democracy remains in the process de-linked from social and economic democracy, which in most political theory texts is seen as a prerequisite of democracy itself. And Indian democracy continues to function within a set of contradictions – successful political democracy existing amidst substantial poverty, hunger and want. Second, excessive reliance on personalized contacts to resolve problems, because neither political parties nor civil-society organizations inspire confidence in the minds of the citizens, does not bode well for the future of democracy. Overt dependence on personal ties may lead to the consolidation of patron–client relationships, which can prove to be profoundly undemocratic, as well as isolate people from each other. This pre-empts the forging of solidarity on crucial issues that are common to all in civil society. For instead of coming together to demand of the government what is rightfully theirs, individuals tend to press for benefits for either just themselves or for their friends and

acquaintances. This fragments civil society, which is an essential precondition for a healthy democracy, and adds to the power of the state. Finally, if, as our data show, citizens would rather approach the government directly or along with their acquaintances to solve their problems, then surely this constitutes an adverse comment on the ability, the willingness, the capacity and the competence of all modes of representation in the country to 'stand in' for their constituents.

M.A. Political Science, Semester I
Course Title : Indian Political System
Unit – III : Political Processes

3.3 PARTY SYSTEM : CHANGING NATURE AND EMERGING TRENDS

- Pankaj Kumar Sharma

STRUCTURE

- 3.3.0 Objectives**
- 3.3.1 Introduction**
- 3.3.2 Political Party: Concept and Features**
- 3.3.3 Features of a Political Party in India**
- 3.3.4 Function of Political Parties**
- 3.3.5 Party System**
- 3.3.6 Genesis and Evaluation of Party System in India**
- 3.3.7 Changes in the Party System**
- 3.3.8 Lets Sum Up**

3.3.0 OBJECTIVES

The lesson on party system analyses the evolution of the party system in India after independence. After going through this lesson, you should be able to:

- Grasp the nature of the party system in India and understand its various characteristics
- Know how the party system changed along with the changes in the socio-economic conditions
- Discuss the major factors underlying the changing nature of party politics

3.3.1 INTRODUCTION

Political parties are important not only because of the range of functions they carry out, but also because the complex interrelationships between and among parties are crucial in structuring the way political system work in practice. This network of relationships is called a party system.

The constitution of India has provided for representative and federal form with the parliamentary democratic government at the Union and in the States. Democratic representative government cannot function without political parties. Political parties formulate, consolidate and express public opinion. They simplify the election process; enlighten the people on political issues and their responsibilities. They act as the best link between the government and the common man. A.D. Lindsay, R.M. Mac Iver, Joseph Schumpeter, Maurice Duverger, Edmund Burke and others have emphasised the significance of Political Parties in democracy. Political parties have been an inevitable outgrowth in representative electoral democracies. A democratic government is always organized and worked by political parties. That is why it is said, “No Party No Democracy”. According to Burke, Political Party is a body of men united for promoting the principles of national interest. It is the existing political

culture that determines the party system of a country. The political culture of a society is the sum total of the values and participatory attitudes that the people maintain.

3.3.2 POLITICAL PARTY: CONCEPT AND FEATURES

Political parties are important components of modern political systems whether socialist or liberal system and are treated as essential for functioning of representative democracy. Edmund Burke's definition is treated as the starting point of understanding political parties. According to him, "a political party is a set of people coming together, guided by common values or ideology and pursuing common cause". However, this definition is now treated as philosophical understanding of political parties.

A political party is essentially a social group having associative type of social relationship activity and inter-personal relationship, membership in which rests on formally free recruitment. However, a political party is different from other social groups. The goal of political party is to secure political power and hold it either singly or in cooperation with the other political parties. A political party is very much a clientele-oriented organization. Max Weber called political parties as power houses because the most important objective for people to form parties is to gain political power.

Political Party is an organization of several people who have similar political views. It tries to secure the power to rule. But this is done only through peaceful and constitutional means i.e. through elections. The primary objective of political parties is to win elections in order to be able to form a government in accordance with the majority rule sanctioned by the parliamentary principle of government. These contest elections by fielding their candidates. Infact, political parties are the most major actors in elections. The political party, which gets a majority of seats in the legislature, forms the government and other political parties act as opposition parties.

3.3.3 FEATURES OF A POLITICAL PARTY IN INDIA

Some of the important features of the political parties in India are outlined below.

- 1) All the parties at present can trace their earlier origins to the Indian National Congress.
- 2) A political party is a fairly **large group of people**.
- 3) **Members** of a political party have **similar political views** or faith in one political ideology.
- 4) Political party is an **organized association**. It has its constitution which defines its ideology, aims, objectives, and office-bearers of the Party (President of the Party, Executive Committee of the Party, Election Committee and other such committees and office bearers of the party). The bulk of the parties in India are organizations or groupings of middle-of-the-road liberal and centrist political orientation.
- 5) Definite objectives i.e. the objective of attaining governmental power: A political party **always tries to get the power to form the government** and to rule the country. It fields its candidates, organizes election campaigns and tries to win more and more seats in the elections.
- 6) A political party has full **faith in peaceful methods**. It always acts through peaceful means, like elections, for fulfilling its aim.
- 7) A political party always **works for the promotion of interests of the nation** as a whole.
- 8) A political party always acts according to the provisions of the constitution and rules laid down by laws.
- 9) The parties are characterized by fragmentation, splits, polarisation, mergers and defections etc.

- 10) Today the political parties in India are *coalitional* rather than *consensual*: Political parties in an earlier era were primarily *consensual* in nature. There used to be a basic consensus on matters of policy and leadership.
- 11) A political party is **actively involved in politics** either as a ruling party or as an opposition party.
- 12) Political parties today are more *pragmatic* than *ideological*: There are no clear-cut ideological differences in the politics and programmes of parties. All parties subscribe to democracy, socialism, secularism and non-alignment. When ideological polarisation becomes irrelevant, mobilisation of support using other social cleavages which are electorally salient tends to rise. In short, political parties in India are gradually transforming from policy oriented parties to ‘office-seeking’ parties.
- 13) The *holistic* style of politics is replaced by a *segmental* style where one or a few sections of society are seen as integral parts of a political party. The segmental style of politics has emerged after a long process of realignment of political forces in India. The process was initiated by Indira Gandhi’s style of politics. Her slogan, ‘*garibi hatao*’ attempted to create a coalition of poor and weaker sections of society, and ironically, the Congress party was outmanoeuvred in this game by other political parties. Each political party tried to be identified with specific cleavage groups. The game reached a climax with the implementation of the Mandal Commission report accepting a policy of reservation for backward castes. This led to a process of alignment of political forces on the basis of caste identity. Similarly an event like the demolition of Babri Masjid divided the parties into those who were defenders of Muslims and those who were not.
- 14) Number of political parties actively involved in elections determines the party system in a country. When several, essentially more than two

political parties are actively involved in politics, the system is called Multi-party system. When two political parties act as major players in politics and others play a minor role, the system is called Bi-party system.

No doubt Indian political parties have fragmented over the years. Frequent party splits, mergers and counter split to have dramatically increased the number of parties that now contest elections. In 1952, 74 parties contested elections, whilst in recent years this number has been swollen to more than 177, and has been consistently increasing since 1989. The instability at the Union level or in the States be attributed solely to the growing number of parties, or the malaise with the political system suffers today lies in the functioning and the dynamics of the party system in India.

3.3.4 FUNCTION OF POLITICAL PARTIES

A political party performs a wide range of functions such as interest-articulation and interest-aggregation; political communication; political socialization; political mobilization; political recruitment; organization of government and political education. A democratic government always works through political parties. Election cannot be held with out political parties.

- 1) **Formation of Government:** Political parties contest elections. These put up their candidates in elections. Each political party tries to secure maximum support for its candidates. When a political party or group of parties wins majority of seats in elections, it forms the government.
- 2) **Acts as Opposition:** Such political parties as do not get a majority, play the role of opposition parties.
- 3) **Political Education:** Political parties provide to the people education about politics and government. People take part in elections and politics

through their political parties.

- 4) **Acts as a link between the Government and Masses:** Political parties convey to the government the views and demands of the people. Political parties always try to win public support by maintaining active contacts with the people.
- 5) Political parties act as **agencies for forming public opinion** on various issues and problems of the country.
- 6) **Recruit Leaders:** It also serves as agencies for the recruiting leaders. In fact, while working as active members of political parties several persons emerge as political leaders. It takes active part in the working of democracy.
- 7) These also **perform several social welfare functions** and help the people during natural calamities like earthquakes, floods, famines, Tsunami and others.

3.3.4.1 Problems of political parties in India

The political parties in India are confronting with numerous problems in their day to day functioning. These are:

1. Organizational problems.
2. Factionalism and Defections.
3. Absence of inner party democracy.
4. Non-Representation of women.
5. Need for funds.
6. Lack of ideology and values in politics.
7. Lack of Leadership quality.

3.3.5 PARTY SYSTEM

The mere presence of parties does not guarantee the existence of a party system. The pattern of relationships amongst parties constitutes a system only if it is characterized by stability and a degree of orderliness. The major party systems found in modern politics are One-party systems, Two-party systems, Dominant-party systems and Multiparty systems.

The party system that has evolved in post-independent India has got its own peculiarity. Its growth and change can be attributed to the complex inter-play of socio-economic development and India's experiment with democracy. The universal adult franchise, which was guaranteed by the Constitution of Independent India, has practically increased the participation of people in the political process. Similarly, the socio-economic development and affirmative action's of the Indian State also played significant role in the evolution of party system. This inter-play of socio-economic development and democratic politics has brought many underprivileged sections of the society into active picture of political process. This political development completely changed the structure of the party system that was evolved immediately after the independence.

3.3.5.1 Features of Party System in India

The basic features of political parties are outlined below.

1. One party dominance system.
2. A multi-party system.
3. Weakness of the non-congress parties.
4. Reliance on powerful personalities.
5. Lack of ideological commitment.
6. Emergence of regional parties.

7. The common socio-economic background of party leaders.
8. Factions within the parties.
9. Distinctive party systems in the states.
10. The use of extra-constitutional means to power.

3.3.6 GENESIS AND EVALUATION OF PARTY SYSTEM IN INDIA

Rajni Kothari has argued in his *Politics in India* that the party system evolved from an identifiable political centre. This political centre, carved during the nationalist movement, was comprised of the political elite sharing common socio-economic background i.e. educated, urban, upper-caste people belonging mainly to middle and upper classes. The ruling party and the opposition, coming from the same social background, shared the social perceptions and converged on many issues. A consensus, therefore, existed within the system around the basic values. The Indian National Congress was the institutional manifestation of this political centre

3.3.6.1 Nature of Party System in India

Political parties are treated as the most important institutions in representative democracy. Party systems are so important because they perform the important input functions. According to **Sartori**, **party system** is defined not on the basis of the number of parties but on the basis of number of parties making impact on the political system. For example, for long India was known as “One Party Dominant System”, despite the fact that multiparties are existing since pre-independence period.

Moris Duverger has established link between the type of electoral system and the nature of party system. If electoral system is of simple majoritarian type, the party system will be two party systems. If electoral system is proportional representative type than the party system will be multiparty system. India does not fit in the framework of Duverger’s law. Despite having simple majoritarian type system, India has come to show the cases like one party dominance system and multiparty

system. The example shows that the history, society and culture are important variables shaping the party system. Today in India we have multiparty system which has given rise to coalition era in Indian politics.

3.3.6.2 Pre-Independence Phase

Even during national movement, there existed various political parties like INC, Muslim League, Communist parties etc. INC represented diverse ideological trends. However, in Indian context INC emerged as “hegemonic party”. INC was rainbow coalition. It represented different ideological trends, both leftist and rightist. It represented the interests of minorities as well as majorities, peasants as well as capitalists. It started as a pressure group in 1885. Then it became mass movement. Gandhi played an important role in organization of congress on party lines. The other two parties i.e. Muslim League and CPI represented the smaller sections of Indian society. Both these parties had both cooperative and conflictual relationship with congress in different phases.

3.3.6.3 Phase II- 1952-1967: one-party dominant system under the aegis of the Indian National Congress

During this phase, elections were a multi-party affair, but the Congress was voted to power time and again with overwhelming parliamentary majorities. This phase was termed as ‘**one party dominance system**’ by **Morris Jonnes** and ‘**Congress system**’ by **Rajani Kothari**. The Congress system reflected the dominance of Congress in Indian politics. Dominance of the Congress as the ruling party did not mean absence of competition. Many opposition parties competed with the Congress Party. But, such competition did not result in challenging the predominant position of the Congress Party. Morris-Jones aptly described this phenomenon as “dominance coexisting with competition but without a trace of alteration”. In electoral terms, it implied that although a number of opposition parties entered the electoral arena but none of them singly or in combination could secure substantial number of seats to replace the Congress as the ruling party. The Congress party electoral performance

from 1952 till 1967 was such that it obtained majority of seats (about 73-75%) yet, its electoral percentage share was less in proportion to the number of seats it won. The Congress was at the core of the system, while other parties were on the periphery. This was the period of “consociational” dominance of the Congress Party ruling with overwhelming majorities in the Parliament and in almost state Legislatures.

According to Rajani Kothari, opposition even in combination was not in a position to defeat Congress. The non-Congress parties didn't have even a rare chance of forming government. Congress was dominating both at the centre as well as in the states. It combined the role of the government as well as opposition. Effective opposition came from within the Congress rather than opposition parties. Rajani Kothari calls Congress as party of Consensus and other political parties as ‘parties of pressure’. The role of opposition parties was limited to that of constantly pressurising, criticising and censuring the ruling party. The status of other political parties was not more than a pressure group.

The style of electoral politics typical of this phase may be called the “locality-oriented pluralist network model” of political mobilization by the grassroots Congress workers at the base overlaid by a democratically constructed national, state and district Congress organizational leaders through internal party elections and general elections led by Congress legislators in the Assemblies and the Parliament. One of the important features of the Congress party that helped it to sustain its position of dominance was its capacity to represent divergent social groups and interests. As it drew its support from different sections of society, it played the role of a great “umbrella party”. It had assumed the character of a “broad coalition”. Through its accommodative and adaptive politics, it could curb the role and relevance of opposition.

Congress system has shaped functioning of different organs of government. Congress system has made the interpretation of powers of President as nominal. It facilitated the rise of prime ministerial form of government in India. Congress system was also

shaping the nature of Indian federation. The autonomy of federal units was overshadowed by the rule of congress at centre.

The 4th general elections in 1967 were the crucial, as non-Congress government came to power in 13 states. In November 1969, the Indian National Congress witnessed a major split between the Indira-led faction and the Syndicate faction giving rise to two Congress parties: the Congress (Ruling or Indira) and the Congress (Organization or Opposition). It ruled with the outside support of CPI and DMK. It was reduced to minority at the centre. Therefore, the monopoly of Congress was broken.

3.3.6.4 Phase III - 1967-1979: Two party System

The period marked the unprecedented centralization of political power in the hands of the Prime Minister. The autonomy of the state governments also became a casualty, as the practice of the virtual selection of Chief Ministers by the Prime Minister herself (who was often also the Congress Party President) and their subsequent endorsement by the Congress Legislature Parties became the common procedure rather than the exception. This new “pyramidal” power structure and “neopatrimonial” federal structure stamped out the pluralist democratic features of the Nehru era in which the intermediary political elites in the party and the governments counted. Under Indira Gandhi the Congress Party was transformed into a personalized political machine entirely dependent on the direct charismatic mass appeal by an “imperious” Prime Ministership superimposed on an increasingly authoritarian governmental structure periodically renewed in plebiscitary elections.

This was the phase of confrontation between Congress and JP movement. In 1971, snap elections were held. Indira Gandhi aimed to establish the direct link with public. She wanted to by-pass the institutionalized structure of Congress party. She had converted the Congress party into personalized party. This tradition was different from Nehruvian tradition, which promoted democratic character within the Congress itself. Indira Gandhi wanted to secure her position from internal challenges (challenge

from the regional bosses) to her authority. The Congress party became pyramidal in nature. Here power was concentrated at the top and there was mass mobilization at base and the pattern that is commonly found in socialist or dictatorial forms of government started emerging. Rajani Kothari blames Indira Gandhi for starting the deinstitutionalisation in Indian democracy. According to Stanley Kochanek, the change in the nature of the Congress party had given blow to the federal system in India. The other leaders provoked mass movements against Congress. JP and Morarji Desai started mass movement to re-institutionalise democracy in India. Till 1976 situation became uncontrollable. Allahabad High Court had declared Indira Gandhi's election as invalid. This was the crisis phase and ultimately, emergency was declared. The federal form of government was eclipsed and the unitary form of government came into existence because of imposition of emergency.

In 1977 elections, Janata party came to power. Janata Party was coalition of Congress (O) of Morarji Desai, Bhartiya Lok Dal of Charan Singh, and Congress for Democracy of Jagjivan Ram and Bhaguna, Socialist Party of Madhu Limaya, George Fernandes and Madhu Dandaratte and the Bhartiya Jan Sangh led by Vajapeyi and Advani.

The Congress and Janata party captured 3/4th of the total votes. It gave the impression that two party system is been evolved. However, this phase ended soon. Janata party was fragmented as it was a weak coalition. The coalition partners lacked necessary attitude for exercising successful coalition. There were ego clashes of the leaders and party lacked cohesion and discipline. It was unable to contain different conflicts and interests. The forecast that India is moving towards two party systems was also proved immature.

3.3.6.5 Phase IV - 1980-1989: Restoration of Congress i.e. Governments at the Centre and most states in 1980s

This was the phase which gave opportunity to rebuild pluralist and democratic character of Congress. However, no such effort was made. Prof. MP Singh blames

both Indira Gandhi as well as JP for not attempting to build institutionalized parties in India. Congress came back to power on the slogan, “Government that Works”. According to MP Singh, it is coming back of the congress but not of the congress system. Congress system had gone. States started asserting their autonomy. Congress continued to rule till 1989. Congress kept on losing one state after the other. India witnessed the demands for state autonomy. These demands took the shape of separatism. The highly active states in this phase were J&K, Punjab and Assam. This was the phase when centre appeared weak. Regional groups and parties started asserting themselves. The nature of federalism in India started changing from Cooperative federalism to bargaining federalism.

3.3.6.6 Phase V - 1989 Onwards: Age of Coalition

This phase includes the transformation of Congress dominance into a multiparty system with federal coalitional and / or minority governments in 1989 Lok Sabha election to-date. Coalition was not a new phenomenon in Indian context. During the phase of Congress system, congress itself was a grand coalition. Indian states have experienced coalition politics much earlier. Even the Janata experiment can be treated as an example of coalition at the national level. However, the age of coalitions formally began in 1989. The coalition phase in formal sense began with 9th general elections and brought VP Singh into power.

NDA and UPA are the successful experiment of the functioning of coalition government in India. The analysis of the coalition experiment afterwards 1999 elections shows that gradually India has moved towards maturing political culture.

3.3.7 CHANGES IN THE PARTY SYSTEM

During the last two decades Indian parties and the party system have undergone remarkable changes. The changes are not simply in the number of parties or their relative strength. There has been a qualitative transformation in the manner in which each party perceives its role in politics and in its interaction with other political parties. The nationalist fervour of the aftermath of independence has given way to

the *realpolitik* of governance, involving all the features of bargaining, negotiation and compromise. It would be argued that it is the structural transformations in the civil society which are primarily responsible for these changes and that these transformations in turn were brought about by the policy of economic liberalization.

The Congress party has been a reference point in the analysis of the party system in independent India's political history. In the first two decades, it was the Congress party's dominance and, in the next two decades, it was the nature of opposition to the Congress Party which defined the party system. But since the late 1980s, the sharp decline of the Congress Party has resulted in a transformation of the system. The decline of the Congress Party is not simply evident in the electoral returns, but more importantly, in the way the party and its leaders perceive their role in the political process. This has redefined the grammar of party competition in India. As Yadav observes, the Indian party system is undergoing institutionalisation and de-institutionalisation simultaneously. On the one hand, the reach of the parties has increased and their capacity to draw allegiance, expanded at the expense of non-party competitors. On the other hand, the depth or the intensity of the allegiance has been very sharply undermined, reducing the act of voting for parties to an instrumental moment.

Party competition in India has to be conceptualised now in a multidimensional space. On one side, the dimensions of this space in India are expanding; but on the other side, its domain is collapsing. The traditional notion of party competition based on one-dimensional distinction in the left-right or liberal-conservative continuum is of limited relevance in the present context. Other dimensions which have become politically relevant include: secular/communal, casteless/casteist, rural/urban, integrationist/ethnic, national/regional/local, democratic/authoritarian, among others. These dimensions of cleavage are expanding so rapidly and distinctively that it is not easy to compress them to a unidimensional space. For example, during the last few years issues concerning gender, especially for reservations in political and administrative positions, have become politically salient and each political party will

have to take specific position on this dimension as well. All these cleavages, separately and together, help organise the issues and create party images and identifications.

The domain of the multidimensional space of the party system is collapsing from national to regional or even local boundaries. Each state can be visualised as a miniature party system. Even dimensions of party cleavages vary from state to state. While in Assam ethnicity and regionalism are politically important cleavages, in Uttar Pradesh religion and caste are of primary importance. The political distance between the Congress party and Janata Dal in Bihar may be quite remarkable, but in Orissa the difference between the two may not be all that great. Therefore, one has to reverse the centre of analysis for a proper understanding of today's Indian party system, as it is the **peripheries which have become the political centres.**

Each political party is constantly trying to redefine its position in each dimension depending on anticipated electoral support. For example, the Congress party projected itself as a secular party until the early 1980s. Then it acquired a pro-Hindu image. But after the Babri Masjid episode it has been trying to re-establish its secular credentials. Similarly, the Janata Dal claims to be secular, but during the 1996 elections, when the chief of Jama Masjid issued a *fatwa* for the Muslims to vote for their party, its leaders did not consider it proper to protest against it. The BJP has an image of an upper caste, urban-oriented party, but is trying its best to find a niche for itself among lower caste and rural populations.

One could, therefore, **characterise the party system in India** today as one of ***segmented pluralism***. **It has three distinct features.**

First, there is **multiplicity of parties with varying strengths**. These include the national, regional and local parties. The number of political parties are to be counted not simply by the label they use, but also by looking at the effective number of party units, *i.e.*, by disentangling the intra-party coalitions that each party label seeks to hide. Therefore, the number of political parties are more numerous than what is mentioned in the Election Commission's list. The strength

of each party has to be carefully assessed. Each political party might be weaker than what the election results suggest. The effective fractionalisation of party system is much higher than a mechanical counting of scores.

Secondly, the party system is segmental, but not polarised. The ideological distance among the parties is minimal. There is a trend towards depolarisation. Though they have come closer ideologically, the distance in the sphere of other cleavages has increased. This distance, and therefore competition, is determined by a multidimensional pattern of cleavages. But survival of most of the parties depends on their appeal to one or a few segments of the population, based on caste, religion, etc. A positive aspect of this development is that some of the groups or interests which were earlier marginalised could find enough space for themselves within the party system. They have acquired a new bargaining power which was earlier suppressed in monolithic parties.

Thirdly, the party system is generally centrifugal rather than centripetal. There is a **trend towards regionalisation of the party system.** Several regional parties have emerged and have become electorally important, and the national parties have tended to view their regional units as the focal points in inter-party competition. A process of decentering of the party system has started. State-based leaders like Sharad Pawar or K. P. Karunakaran in the Congress Party, Jyoti Basu in CPM or Lalu Prasad Yadav in Janata Dal have acquired prominence in national politics. Even a person who had virtually no experience in national politics, like H. D. Deve Gowda, could become a prime minister.

Initially, Congress party played a very vital role in shaping Indian party system. However, it cannot escape from the responsibility of decay that has set in Indian party system as it is the oldest political party in India. The 'catch- all' character of the Congress party won helped it to win election, without forcing any change in its policies or leadership pattern. The Congress party was supported by masses from diverse background but as pointed out by Yogendra Yadav, the party's upper class-upper caste leadership remained the legitimate representative of the masses.

Charismatic personality of Nehru helped it to remain in power till the end of the decade of sixties. In 1967, serious challenge to Congress dominance emerged and its hegemony as a dominant party was challenged. Its ability to accommodate dissent got challenged forcing many groups to break away.

In India, party system has covered a long journey from one party dominance to coalition government. And in this process democracy has further got consolidated. Coalition governments, which are generally associated with instability, inordinate delay are after initial hiccup running successfully. Change is imminent in party system and Indian democracy is no exception to this. Indian political parties during the contemporary times are coalitional rather than consensual, segmental rather than holistic, pragmatic rather than ideological. The party system is characterised as segmental pluralism. The explanation for these changes is traceable in the radical transformations which are taking place in the civil society—in the way individuals and groups perceive their roles as constitutive elements of a political community. The policy of economic liberalisation has acted as a catalyst in accelerating these changes in perceptions. However the question arises as to whether it has consolidated democratic roots or it reflects the misuse of political system for narrow selfish purpose.

3.3.8 LETS SUM UP

The party system in India, thus, originated from the desire and zeal of the western educated intelligentsia in the late 19th century to form associations for social reforms. The Indian national Congress was resulted of this zeal, as some prominent individuals in the three presidencies felt the need for an organization that approached the government on behalf of the people to make them aware of their requirements. However, at that time, it was transformed into a movement representing the length and breadth as well as social heterogeneity of the country. It also brought together different points of views and ideologies, and in the process functioned as a composite party system.

M.A. Political Science, Semester I
Course Title : **Indian Political System**
Unit – III : **Political Processes**

3.4 INTEREST GROUPS: CORPORATE, TRADE UNION AND PEASANTS

STRUCTURE

- Mamta Sharma

3.4.0 Objectives

3.4.1 Introduction

3.4.2 Meaning of Pressure Groups/ Interest Groups

3.4.3 Pressure Groups and Lobbying

3.4.4 Types of Pressure Groups

3.4.5 Nature of Pressure Groups In India

3.4.5.1 Corporate Groups

3.4.5.2 Trade Unions

3.4.5.3 Peasants Organisation

3.4.6 Methods of Operation of Pressure Groups In India

3.4.7 Conclusion

3.4.0 Objectives

After going through this lesson you will be able to:

- Know the concept and types of pressure groups in India
- Understand the nature and functioning of pressure groups in India

3.4.1 INTRODUCTION

Pressure groups have become a very important part of an administrative system. These groups try to pressurise the administrative and political system of a country either to ensure that their interests are promoted or to see that at least their interests are not relegated to the background. No system can function effectively without taking their viewpoint into consideration. In developing countries like India where there is a scarcity of various resources on the one hand and acute poverty and deprivation on the other, the pressure on administrative system is bound to be very heavy. The pressure groups arise in different forms in different walks of life. They provide a stabilizing mechanism and form a crucial component of the structural equilibrium which means that they perform the system maintenance function. There can be another side of the phenomenon where the pressure on the system may reach a breakdown point. Thus, the questions like how the pressure groups are formed, how do they operate and what mechanisms the system adopts to cope with the pressures become important issues confronting the administration of any country. This Unit tries to give us a clear picture regarding the functioning of pressure groups in India.

3.4.2 MEANING OF PRESSURE GROUPS

Pressure groups are forms of organisations, which exert pressure on the political or administrative system of a country to extract benefits out of it and to advance their own interests. In the present context these forms of organisations are broadly referred to as Civil Society Organisations (CSO). In this unit we shall be examining

their role as pressure groups. The term 'pressure group' refers to any interest group whose members because of their shared common attributes make claims on the other groups and on the political process. They pursue their interests by organising themselves and by influencing the governmental policies. Their aim is to see that laws or government's actions are favourable to their interests. Pressure groups have been in existence in different forms ever since governmental machinery became capable of delivering certain benefits to either individuals or groups. They did take more concrete form in the wake of industrial revolution and the rise of market oriented economies. The emergence of trusts and monopolies and the struggle over tariffs led to the formation of pressure groups. With the advancement of technology and agricultural skills new problems, desires and needs arose and therefore new groups and organisations came into being to advance their common interests. State assumed various welfare functions in addition to its earlier regulatory activities. All this entrusted considerable power and discretion in the hands of state apparatus and the need to exert more pressure on the State became stronger. The dominant sections of the society needed the help of the State in promotion of the economic activities and the weak and the deprived needed its help for meeting their basic requirements. To articulate their interests, and exert pressure on the State apparatus these groups gained prominence. Pressure groups in mobilising and organising masses have widened the base of political participation as well as creating a responsive political and administrative system. They help in social integration, political articulation and act as catalysts for change. Finer has characterised pressure groups as 'anonymous empire'. Richard D. Lambert views it as unofficial government. These groups influence both public policy as well as administration. They also contribute towards determination of political structure of society and the form of government. Any social group which seeks to influence the, behaviour of any political officer, both administrative as well as legislative, without attempting to gain formal control of the government can be called a pressure group.

3.4.3 PRESSURE GROUPS AND LOBBYING

Pressure groups and lobbying is not one and the same thing. Lobbying takes place when a few members of pressure groups loiter in the lobbies of the legislatures with a view to securing an opportunity to interact with legislators and to influence the decisions of the legislators. Parity cannot be drawn between lobbying and pressure groups even though the lobbyists are the representatives of particular interest groups. Lobbying is a communication process used for persuasion; it cannot be treated as an organisation. Lobbying is used in governmental decision making and it aims at influencing the policy process. It acts as an instrument that links citizens and decision-makers. Lobbying is different from pressure groups in the sense that pressure groups are organised groups and they perform various functions including lobbying.

CHARACTERISTICS OF PRESSURE GROUPS

To have a proper understanding of pressure groups we must try to familiarise ourselves with the various characteristics of pressure groups.

Based on Certain Interests

Each pressure group organises itself keeping in view certain interests and thus tries to adopt the structure of power in the political systems. In every government and political party there are clashing interest groups. These groups try to dominate the political structure and to see that groups whose interests clash with theirs are suppressed. Thus, each political party and system is pressurised by certain interest groups which may be similar or reactionary to each other.

Use of Modern as well as Traditional Means

Another characteristic feature of pressure groups is that they try to follow modern means of exerting pressure, without fully giving up the traditional or old ways of operation. They adopt techniques like financing of political parties, sponsoring their close candidates at the time of elections and keeping the bureaucracy also satisfied.

Their traditional means include exploitation of caste, creed and religious feelings to promote their interests.

Resulting Out of Increasing Pressure and Demands on Resources

As the resources of developing countries are usually scarce, there are claims and counter claims on their resources from different and competing sections of the society. In such a situation, there has to be a process of allocation. The public policies thus become the devices through which allocation takes place. However, the allocation process has to be accompanied by certain amount of authority for the demands of all the groups cannot be satisfied. In the process certain other groups are denied the benefits. Those who are denied the benefits are found to be unhappy and do express their resentment through different forms. This may range from mild protests to violent outbursts. In such a situation the allocator of values, viz., the State employs different techniques to contain the movement or meet the protest. At ideological level the State would claim legitimacy of its authority to allocate the values. If the legitimacy claim is accepted then the conflicts get resolved in a more orderly fashion. If the claims for the legitimacy are rejected, the State employs force and justifies it on the grounds of legitimacy and maintenance of order in the general interest of the society. The pressure groups take birth in this process. In every society there is a continuous generation of demands. In developing countries like India, where around forty per cent population is below the poverty line, the demands emanate from the basic physical requirements of human beings. There are demands not only for food and basic needs but demands for work and opportunities. It is significant to note that the pressure for these demands has come more from the elite than the poor people themselves. Although there is restlessness, it has not acquired a concrete form in terms of poor peoples' organisation. The poor continue to be one of the most unorganised segments of the society with the result their problems do not get articulated sufficiently and pressure applied is not adequate to extract the share that is due to them.

Alternative to Inadequacies of Political Parties

Pressure groups are primarily a consequence of inadequacies of the political parties. The political parties are expected to articulate the demands of different deprived and dominant interests in the system. They are also expected to organise and mobilise the support structure to various demands. In India, the spectrum of political parties indicates that while all of them do talk of the poor and other deprived sections and give prominent place to their problems in their manifesto as, a larger number of them neither have the capacity nor the political will to organise the poor. Thus, the political parties leave a wide gap in the system. This gap is not filled by the pressure groups either. This is due to the inability of the poor sections to organise themselves. The political parties have not been able to present the interests of the dominant groups as adequately and fully as one would expect them to do. Most of the political parties compete for the same social base. With the result there is not much difference between one party programme and the other. This has left enormous gaps in the socio-economic system of the country. These gaps have come to be filled up by the pressure groups. In a mixed economy where the state has opted for planned development, the dominant interests are always suspicious of the intentions of the state. This gives rise to organised pressure groups as a counter-check to politics and political parties. For -instance, the Acts like Monopolies Restrictive Trade Practices (MRTP) or land reforms can always be a source of doubt about the real intentions of the policy formulators. That is the reason why the dominant interests are alert through pressure groups. Another reason why political system leaves considerable space for pressure groups is the continuous regulations and restrictions imposed by the political system. From obtaining a licence to selling a product in the market, there is presence of the State. IT is a highly bureaucratised process. The interest or pressure groups not only need to have a highly organised pressure system but maintain middlemen, liaison officer, hidden persuaders and so on. They adopt several methods to extract the favours from the system on the one hand and circumvent highly impending procedures, rules and regulations on the

other. The political parties because of their dependence on the poor voters do not publicly plead for the course of the dominant interests. On the contrary their rhetoric is anti-dominant social groups. This gives rise to pressure groups. Represent Changing Consciousness Pressure groups are a sign of changing consciousness. The consciousness of different groups go on changing as the result (i) changing material conditions; and (ii) increasing politicisation. The change in the material conditions leads to higher level consciousness. For instance the increase in the food production or industrial goods does bring a change in the way individuals and groups look at the world. The stagnation in production leads to fatalism but increase in the production leads to demands, protests and formation of new pressure groups. This is the initial expression of the changes in material conditions. This also leads to sharpening of the political processes. The political parties and political groups try to mobilise various groups by raising new demands or articulating the new aspirations. The people at large respond to those processes as they enter a new phase of consciousness. Thus, the changing material conditions and consciousness create a 'new situation for the rise of pressures and in turn the pressure groups. The pressures arising from competition are, in fact, the real arena of pressure group phenomenon. The poor and the deprived sections lack the capacity to organise themselves, therefore, they are usually organised or represented by the elite for upper strata. That is why the nature of pressure that is applied on behalf of the poor would be different from the pressure that the better off sections apply on the society. The better off sections who are locked up in competition from the limited resources of the society employ all the methods possible to extract maximum benefits from the system. It is in understanding the modes and methods that these groups adopt, our awareness of the problem gets enlarged. In present times, the role of some movements, for protection of rights of people, has become significant. They are playing the role of a pressure group. For example, the Narmada Bachao Andolan (NBA) movement has generated consciousness amongst the people in questioning the actions of government regarding dam construction and its repercussions. Similarly, in the State of Rajasthan, a people's organisation known as Mazdoor Kisan Shakti

Sanghthan (MKSS), could succeed in making the people question and demand information on money spent on roads; loans to poor and so on. This made the basis for the right to information movement. People are exerting their rights to get information from the government regarding activities that rightfully concerns them.

3.4.4 TYPES OF PRESSURE GROUPS

Different writers on comparative government have classified interest groups or pressure groups on the basis of their structure and organisation. According to Almond and Powell, interest groups can be classified into four categories,

i) Institutional Interest Group ii) The Associational Interest Groups iii) Anomic Interest Groups iv) Non-Associational Interest Groups

Institutional Interest Groups

These groups are formally organised which consist of professionally employed persons. They are a part of government machinery and try to exert their influence. But they do have much autonomy. These groups include political parties, legislatures, armies, bureaucracies and churches. An example of institutional group can be the West Bengal Civil Services Association. Whenever such an association raises protest it does so by constitutional means and in accordance with the rules and regulations.

Associational Interest Groups

These are organised specialised groups formed for interest articulation, but to pursue limited goals. These include trade unions, organisations of businessmen and industrialists and civic groups. Some examples of Associational Interest Groups in India are Bengal Chamber of Commerce and Industry, Indian Chambers of Commerce, Trade Unions such as AITUC (All India Trade Union Congress), Teachers Associations, Students Associations such as National Students Union of India (NSUI) etc

Anomic Interest Groups

These are the groups that have analogy with individual self-representation. In such type of groups, perpetual infiltrations such as riots, demonstrations are observed. These groups are found in the shape of movement demonstrations and processions, signature campaigns, street corner meetings, etc. Their activities may either be constitutional or unconstitutional. Non-Associational Interest Groups These are the kinship and lineage groups and ethnic, regional, status and class groups that articulate interests on the basis of individuals, family and religious heads. These groups have informal structure. These include caste groups, language groups, etc.

3.4.5 NATURE OF PRESSURE GROUPS IN INDIA

The different types of pressure groups found in India are business groups, trade unions, peasant groups, student groups, teachers' association, caste and religious associations, women's associations, etc.

Non Associational Groups

3.4.5.1 The Business/Corporate Groups

The Business group is the most important and organised pressure group in India. They are also most effective. They are independent of the political parties that exist and they have enough resources with which they can safeguard their interests. Business associations have existed in India even before Independence. The important business groups include the Confederation of Indian Industry (CII), Federation of Indian Chambers of Commerce and Industry (FICCI) and Associated Chamber of Commerce. They exert various kinds of pressures; they try to influence planning, licensing bodies and economic ministries. Some businesspersons are always there in different legislatures at the Central as well as State level. Every Ministry of the Government of India has some kind of consultative committee and business groups are represented there. During pre budget meetings the Finance Ministry interacts with the groups, to secure suitable inputs which helps in budget formulation.

3.4.5.2 Trade Unions

The Indian Trade union movement has rapidly developed. The trade unions were present prior to Independence. Under communist influence, the All India Trade Union Congress (AITUC) was established in 1920s. The emergence of the communist movement also played an important role in the growth of trade unions in India. In 1948, the Indian National Trade Union Congress (INTUC) was established. Trade Unions in India are closely affiliated with the political parties; many national political parties have got their own federations of trade unions. In fact no amount of independence from political parties exists in trade unions. They seem to have been able to exert significant pressure at the policy formulation level and their strength is well recognised by political parties and government. The trade unions when required can be very vocal and militant in their actions to meet their demands. They work through the weapon of strike and have been able to achieve monetary gains in terms of wage increase, bonus, change in wage structure, etc. These types of pressure groups have been able to encourage class consciousness and class solidarity among the workers. We have witnessed over the past few years the trade unions resorting to demonstrations, during the disinvestment by the government in public sector undertakings over the past few years. In spite of certain institutional limitations, such as, ideological differences, internal splits, external pressures, lack of international backing, the trade unions exert significant pressure at various levels of policy formulation.

3.4.5.3 Peasants Organisations

The rise of peasant groups in India has been mainly due to abolition of Zamindari System, implementation of Panchayati Raj, land reform measures, Green Revolution Movement. They gained power since 1960s. In 1936, the All India Kisan Sabha was established and after 1942 the Communist Party of India acquired control over it. Different parties have got their own peasant organisations. Like the trade unions, there is no peasant organisation which may be independent of party control, though

at the State level, their organisations are non-political, independent of the political parties and homogenous. The agriculturists are mainly organised more in regional or local class unions than on all-India basis. Even though there are some important All India Kisan Associations like All India Kisan Congress, All India Kisan Kamgar Sammelan, Akhil Bharatiya Kisan Sangh, peasant groups have been mainly organised on territorial basis. Their demands relate to procurement prices of agricultural products, fertiliser subsidy, tenancy rights, electricity charges, etc. The Bharatiya Kisan Party (BKP) in Western U.P. is considered the most significant pressure group. The interplay of language, caste factor, weak financial positions, etc. has been greatly responsible for non-emergence of national level pressure groups.

Students Organisations The student organisations in India have also acted as pressure groups both prior to Independence and after Independence. The All Bengal Students Association was formed in 1928. The All India Students Federation (AISF) was established in 1936. After Independence the political parties continue to be affiliated with student organisations. The All India Students Congress and later on the National Students Union of India (NSUI) are affiliated to the Congress Party. The All India Students Federation and Students Federation of India (SFI), are controlled by Communist Party of India. The Radical Students Union, Democratic Students Union, Akhil Bharatiya Vidyarthi Parishad (ABVP) etc. are all affiliated to different political parties. They try to pressurise governmental policy on various crucial issues, their activities are not just confined to educational issues. Like the students organisations we also have teachers' associations.

Community Associations Apart from these there are various community associations in India. These community groups are organised on the basis of caste, class and religion. Some examples of caste organisations are Scheduled Caste Federation, Backward Caste Federation, etc. Amongst other organisations there are some like Vishwa Hindu Parishad, Northern and Southern India Christian Conference, etc. which represent interests that are supposed to safeguard their respective religions.

3.4.6 METHODS OF OPERATION OF PRESSURE GROUPS IN INDIA

The pressure groups adopt different methods to realise their goals. These methods even include cordial rapport with the political party in power, to even resorting to agitational methods. The pressure groups finance the political parties during the election time and sometimes even during the non-election times. They control the parties through this funding mechanism. There have been several debates on election finances but no discussion resulted in regulating or controlling the flow of finances. Once the parties receive financial support, they cannot oppose these groups and their interests. On the other hand, they have to promote their interests. It is believed that several members of the national and state legislative bodies are on the rolls of the top industrial groups. The pressure groups also maintain close rapport with the State apparatus, viz., the bureaucratic machinery. The organised pressure groups maintain a wavelength with the key bureaucrats. The role of rampant corruption needs no mention. The liaison officers are appointed to take care of the bureaucrats, particularly when they are stubborn. The lobbyists, middlemen, etc. have acquired enough of skills to manage them. This has also given rise to favouritism, corruption and other maladies in bureaucracy. While one cannot find anything seriously wrong with the pressure groups, it is the methods of operation which have become controversial.

3.4.7 CONCLUSION

In India, organised groups largely influence the administrative process rather than the formulation of policy. This is dangerous as a gap is created between policy formulation and implementation. Unlike the pressure groups in the developed countries of the West, where these are invariably organised to safeguard economic, social, cultural interests, etc., in India these groups are organised around religious, regional and ethnic issues. Many a time factors of caste and religion eclipse the socio economic interests. The result is that instead of serving a useful purpose in the political administrative process, they are reduced to work for narrow selfish interests.

Moreover, many of the groups have a very short life because of the lack of resources. This explains the reason for the mushroom growth of pressure groups as well as their withering away as it becomes difficult to sustain the interest of the persons, initially attracted to form these pressure groups. In a country like India the tendency to politicise every issue, whether it has social, economic, cultural import, restricts the scope, working, and effectiveness of pressure groups. Instead of the pressure groups exerting influence on political process, they become tools and implements to subserve political interests. As a matter of fact, the factors which inhibit development of sound civic consciousness also hinder emergence of healthy and functional pressure groups as a legitimate means of projecting legitimate socio-economic-ethnic and cultural interests of the citizen.

M.A. Political Science, Semester I

Course Title : Indian Political System

Unit – IV : Politics of Representation and Recognition

4.1 ETHNO-NATIONALISM: NATURE, FORMS AND CONTESTATION IN INDIAN POLITICS

- Pankaj Kumar Sharma

STRUCTURE

- 4.1.0 Objectives**
- 4.1.1 Introduction**
- 4.1.2 Dimensions of Ethnicity**
- 4.1.3 Formation of Identity**
- 4.1.4 Ethnicity in Indian Politics**
- 4.1.5 Ethnic Politics: Response of the State**
- 4.1.6 Major Ethnic Movements in India**
- 4.1.7 Summing up Ethnicity**
- 4.1.8 Nationalism**
- 4.1.9 Nation: Concept with Varied Notions**
- 4.1.10 Need for Nationalism**
- 4.1.11 Mechanism to Promote Nation Building**

4.1.12 Nation Building and State Building

4.1.13 Challenges to Nation Building

4.1.14 Lets Sum Up

4.1.0 OBJECTIVES

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

- Know ethnicity and its dimensions
- Comprehend ethnicity and ethnic moments in Indian politics and state's response
- understand the concept of nation
- explain the nationalism and nation building in India
- describe the constraints in nation-building in India

4.1.1 INTRODUCTION

Ethnicity has become an important variable of the studies of socio-political dynamics of the plural societies. In such societies the process of national integration has proved to be quite complex and hazardous. The primary question in building a strong nation in these societies has been as to how to integrate diverse ethnic groups, which have been mobilised and feel dissatisfied in the arena of modernization, development and democracy. This dissatisfaction and mobilization, in turn, may take place due to a number of factors such as historico-cultural, communal, linguistic, religious, political and developmental divides. These divides lead to ethnic tensions and conflicts and prove to be a major source of instability and tensions within the political system.

4.1.2 DIMENSIONS OF ETHNICITY

Ethnic upsurges against discrimination in sharing economic resources and representation in political institutions: Such upsurges have been of low intensity

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and directed towards the administration. Such conflicts are resolved once their demands are fulfilled.

Ethnic movements demanding autonomy within a state or a separate statehood: The arguments behind such ethnic movements are that due to the discriminatory policies of a state in the development of a particular region or community ethnic upsurge takes place. An ethnic group may complain that their economic resources were being utilized by others at the cost of their own people or a group may feel that its cultural identity is being threatened. An ethnic group may also complain that it has been deprived of adequate representation in the power structure.

The extreme form of ethnic conflict has been the **separatist movement**, which may threaten a country's unity and integrity. In such a situation an ethnic group may come in direct conflict with the state involving use of weapons and lot of violence. e.g. in Kashmir.

4.1.3 FORMATION OF IDENTITY

There has been a congruence of religion-language-race-region in the formation of ethnic identities in India. The political mobilisation of an ethnic group is a gradual process and takes place in gradual manner and it may also be a long term process. The process of mobilization of an ethnic group passes through a number of stages such as:

- 1) **Ethnic awareness: Social mobilization** among ethnic groups leading to the rise of a consciousness among them regarding the deprivation and discriminatory policies being followed against them.
- 2) Level and process of **interest articulation and aggregation.**
- 3) Demand for equitable share in the resources and the political system.
- 4) Demand for autonomy.

5) Threat of Secession or actual secession.

Identities are internally differentiated. Identity formation is a selective process, which involves the interplay of internal factors more than those from outside. Moreover, they emerge within the play of specific modalities of power and thus are more the product of marking of difference and exclusion, than they are the sign of an identical, naturally constituted unity –an identity in its traditional meaning that is all inclusive, sameness, seamless and without identity of differentiation.

4.1.4 ETHNICITY IN INDIAN POLITICS

India is highly complex and colourful social mosaic. In India, we had enormous level of cultural diversity. Several cultural markers like language, race, tribe, caste, religion and region served as an identity access for ethnic groups. Indian ethnic groups represent multilayers and multidimensional identities. Indian ethnic groups are not stratified. Ethnic groups in India keep on reshuffling their cultural markers according to the need of their objectives. In India, Muslims are the largest religious minority. Among other religious groups are the Sikhs, Christians, Buddhists, Jains, Parsi and Jews. Hindus are religious majority. However, Hindus themselves are divided on various lines in terms of thousands of castes, subcastes or religious sects. There are more than dozen of major languages. Languages are grouped under three families Indo-Aryan, Dravidian and tribal.

The various ethnic groups which are mobilized to seek proper concessions from the state usually move in a gradual process and their demands may vary in accordance with the extent of their mobilisation. It may be a mere assertion of ethnic identity for political influence and resources; demand for autonomy or a secessionist movement, by claiming a separate national identity and demanding special rights over a territory which they claim to be theirs historically or culturally but which has been pre-empted by the state. The group assertion on the basis of distinct ethnic identities has taken place in Indian states.

Rajani Kothari has pointed out that the paradox of modernisation has been that instead of helping religious, linguistic and racial differences resolved, it provoked ethnic conflicts and communal violence. The deprived groups make use of their distinct cultural traits in order to assert for their rights.

4.1.5 ETHNIC POLITICS: RESPONSE OF THE STATE

An ethnic group makes demand for equitable distribution of resources. The use of coercive powers by the state brings it into conflict with the agitating ethnic groups. These groups also indulge in conflicts with other ethnic groups particularly the majoritarian ones. It not only affects state-society relations but also poses a serious challenge to the very basis of the nation-state.

The response of the state depends on context of political situation. The pattern of the state response to the ethnic manifestations in India has coercion, accommodation, causing the division within the movement, appeasement of and patronage to a particular section of the leadership etc. **Paul R Brass** has argued that in the 1950s and 1960s the central government pursued rules towards the conflicts, etc., - not considering for political recognition of the religions; no concession to the demand of the linguistic or culturally defined.

The adoption of quasi-federal system and reorganisation of states on the basis of language was to accommodate diverse ethnic groups in the political mainstream. Initially the state was able to contain these shocks of ethnicity but adjusting and assimilating various ethnic and regional demands within the politico-bureaucratic framework of the country. But gradually the ethnic issue has become so prominent that the separatist movements of Kashmir and Khalistan, Tamil Nadu etc defied the very basis of national integration process in India. In conformity with the ideology of the anti-colonial freedom movement, India tried to establish its national identity on a secular and territorial basis. It followed the tradition of accommodating different ethnicities, opinion and conflicting interests. The secular approach propounded by Nehru (melting-pot concept) became the official policy for the assimilation of diverse

cultures. Soon the secular approach began to face a challenge with the rise of Hindu nationalism. It gave rise to religious fundamentalism and communalism.

The Indian democracy failed to manage dissent and dissatisfaction of a large section of society. The abuse and manipulation of power by the elite led to the isolation of various communities. They, therefore, began to use ethnicity for political assertion. The rise of various regional political parties on ethnic lines is an example of this. The conditions of relative political deprivation and economic discrimination, real or imaginary, became rallying point in ethnic mobilisation. The development policies have been faulty and discriminatory. The problem of unemployment and poverty has made people and regions conscious about their resources. The deprived communities have tried to assert for their economic rights using the slogan of sons of the soil even as recently witnesses in Maharashtra against Biharis. The agitation in Assam and West Bengal against Bangladeshis and Nepalese in the North East is rooted in the fear of their marginalisation by outsiders.

The demand for autonomy among the states is based on the fact that the development of a particular region or ethnic group is not possible within the same province or state because of discrimination against them. The earlier movements for Uttarakhand, Jharkhand, Chhattisgarh and now for Bodoland, Gorkhaland and others are for the same reason.

4.1.6 MAJOR ETHNIC MOVEMENTS IN INDIA

From the very beginning, India has witnessed the emergence of ethnic movement as a challenge to the authority of Indian nation-state. One of the earliest movements was that of Nagas in the North East.

4.1.6.1 North-East India

With their distinct geographical location and diverse ethnic almost all the states of North-East have been beset with the problems of ethnicity. They all have witnessed insurgency, ethnic riots and autonomy movements of varying degrees at point of

post-Independence period. They have generally taken violent steps. Even as the elements of the insurgency present in almost all the states, it was in most strident form in Nagaland.

They would prefer to have their own nation-states. Insurgent groups in Nagaland for did not accept Indian Constitution, its VI schedule is meant for the North-East. Nagas did not accept the sovereignty of Indian nation-state. They had boycotted the first general election in 1952 and declared to set up their own sovereign state in exile i.e. the Federal Republic of Nagaland. Naga movement was also supported by the external agencies. The naga movement was primarily led by National Socialist Council of Nagaland (NSCN). Today NSCN has different groups; the most powerful group is NSCN (IM). The other group is NSCN(K) and NSCN (HOJO).

NSCN provided ideological leadership as well as training to other insurgent groups in North East. The prominent ethnic resurgent groups in North East are United Liberation Front of Assam (ULFA), National Democratic Front of Bodoland (NDFB), United People's Democratic Solidarity (UPDS), Dima Haram Daoga (Gorlosa) DHD (G). there are various reasons for the rise of ethnic movements in North East. The North East is highly diversified area. Different ethnic groups exist in the area. Ethnic mobilisation is very high. Ethnic groups enter into conflict not only with the state authorities but also with other ethnic groups. The nature of ethnic movements range from the movements for greater autonomy to that of secession from India. In Assam, the movement against foreigners is becoming more and more volatile. The primary reasons associated with most of ethnic movements are region is separated from Indian mainland. A narrow corridor links the region with the mainland. There are 200 tribal groups and subclass which have long standing conflict with one another. The difficult topographic nature hampers the speedy development of the area. Illegal emigration from Bangladesh and short-sighted policies of political parties creates the situation of conflict. The rise of muslim fundamentalism in Bangladesh and emergence of transnational contacts of tribals associations with terrorist group in Bangladesh. Thus North East presents a very complicated case

for government of India. The region feels that there is deep psychological, emotional and physical divide between North East and rest of India.

4.1.6.2 Jammu and Kashmir

J&K is the only Indian state with Muslim majority. J&K is very important for the secular identity of India. It is one of the biggest challenges to Jinnah's two nation theory. The origin of the problem goes back to 1947. Later on the way centre has dealt with the aspirations of the people of Kashmir has created problem. The central government interfered with the internal politics of the state. It never allowed the democratically elected government to function. Central governments also resorted to the coercive means to maintain order. The Pakistan factor further complicates the issue. Kashmir still remains one of the greatest challenge for maintaining national unity and integrity of India. In Kashmir, we see the transformation of a cultural movement into a religious movement.

4.1.6.3 Punjab

Punjab is one of the worst cases of ethnic violence in India. The Punjab problem began primarily in 1970s. Although even at the time of independence there was a demand for separate Punjabi Suba but later on that demand for separate Punjabi Suba but later on that demand lost its widespread appeal. The ethnic problem in Punjab began in context of the federal structure; in 1973 Akali Dal issued Anand Sahib prastar/resolution. This prastar aimed at changing nature of Indian federalism. It was to give greater powers to the states including transfer of Chandigarh to Punjab; more favourable distribution of river water used for irrigation; recognition of Amritsar as a 'holy city' and all India Gurudwara act to place mangagement of all gurudwaras under single administration. The Akali Dal entered into a heated competition with congress in Punjab. The central government encouraged Bhindrawale to counter the rising power of Akalis. What thought as good for the party turned bad for the country. Ultimately the Sikh militancy increased. Bhindranwale had converted Golden Temple into a type of fort to fight. Ultimately central government

had to take strong action in the form of ‘Operation Blue star’. This had created resentment among Sikhs and led in the assassination of Indira Gandhi and wave of anti-Sikh riots in the country. After this Punjab saw years of Presidents Rule. Large number of people were killed in militant and police violence. Gradually Punjab returned to normalcy. According to some scholars, still the movement for setting up of Khalistan has not ended entirely.

4.1.6.4 Linguistic Reorganisation of India

For long, there was the demand for creation of states on linguistic basis. The logic was that the people should be administered in the language which is the language of most of the people in the region. Initially, Nehru feared that linguistic reorganisation would retard national integration. Later on, he succumbed to the political pressure. In 1956, the Federal reorganisation of country began. It continued in 1960’s, 1980’s, 1990’s. still today, there are demands from certain sections like the demands for the creation of Gorkhaland or separate Bodoland.

The organisation of states on linguistic bases provides a framework for expanded political participation. At the same time, it has also strengthened forces of regionalism. It has led to the emergence of militant nationalist’s movement or so called “sons of the soil” theory. The parties like Shivsena have utilized this theory and has directed verbal and physical attacks at outsiders coming from other states. Such attempts undermine personal freedom of movement and the project of India as a nation. The sons of soil theory at one place have inspired people. Assamese also took such native movements against influx of foreigners. Such type of movements challenges the national identity.

The other linguistic movements are the movements in southern states against the imposition of Hindi and the northern domination of south. The movement in Tamilnadu began as self respect movement. It advocated Dravidian nationalism. However, Dravidian movement was not so violent than the other ethnic movements. It has influenced the emergence of many regional parties like DMK, AIADMK, TDP and others.

4.1.7 SUMMING UP ETHNICITY

Thus India gives a very complicated picture of ethnic politics. We see various types of ethnic movements. Some ethnic movements took violent actions and others adopted the democratic path. They ranged from demands for autonomy to separation from India. Salig Harrison believes that 1950's and 1960's were the most dangerous periods of ethnic conflicts in India. There were linguistic, communal and racial conflicts. The general pattern of states response has also varied. Somewhere government took coercion or at other places it took the policy of accommodation. Sometimes attempts were made to divide the movement and at other times appeasement. According to Paul Brass, Government of India pursued certain unwritten rules. These rules were government will never accept the demand for political recognition of religious community and government will give concessions to cultural groups in conflict.

4.1.8 NATIONALISM

India, like any other third world after achieving Independence from the colonial rule, was engaged with the project of nation- building. The leadership of the country at that time believed that the only way to achieve the overall development of society was to have democratic polity in the country based on the principles of secularism, liberty, equity, socialism, which were guaranteed in the Constitution of the country. To achieve these principles the state introduced the model of development. But the project of nation-building with main purpose to achieve democracy and development had to be carried out amidst the ethnic diversities. Apart from the religious groups, there exist diversities of languages, castes in India. The different regions and ethnic groups pose a real challenge to the nation- building. Moreover, the strategic location on the international borders of the East, Tamil Nadu and Kashmir made task of nation-building more challenging. With the holocaust following the partition of the country, the goal of nation-building was top priority of the country's leadership after achieving Independence. It was believed at that time that with the establishment of the democratic political system and overall development, the diversities in India will

not pose any problem in nation-building, however, in fact it did not happen.

While in the first two decades following Independence, attempt in the quest of building India as a nation-state was basically based on the modernization, the developmental or westernisation model. From the 1980s onwards the Hindu rightist forces in the country represented by the BJP and its fraternal organisations are attempting to project India as a nation-state, or a Hindu state, based on the principles of cultural nationalism. Their attempts to introduce legislation regarding the food habits, religious preferences are indication to give priority to the Hindu In such perspective the nation is considered as the Hindu nation-state where other get the secondary position. This poses challenge to the nation- in two ways - one, it does recognise the existence of the other faiths which disagree with it, and social hierarchy based on the Hindu system; second, in reaction to this there has been mobilisation of the ethnic groups based on the religious and caste considerations. It has resulted in the conflicts, terrorism, protest of the low castes, religious conversion, caste riots, and search for an alternative ideology that professes social change. Even the rise of Dravidian was a reaction to the Hindu nationalism as perceived by the Dravidian parties of South India.

4.1.9 NATION: CONCEPT WITH VARIED NOTIONS

A nation is a group of people who feel them to be a community bound together by ties of history, culture and common ancestry.

Nations have objective characteristics which may include a territory, a language or common descent, religion and subjective characteristics essentially people's awareness of its nationality and affection for it.

It is a sentiment of belongings together and emotional solidarity among people. Nations are complex phenomenon that is shaped by collection of cultural, political and psychological factors. It can be explained in a proper way by dealing its meaning with regard to such mentioned factors.

Culturally, a nation is a group of people bound together by a common language, religion, history and traditions, although nations exhibit various levels of cultural heterogeneity.

Politically, a nation is a group of people who regard themselves as a natural political community. It can take the form of civic consciousness.

Psychologically, a nation is a group of people distinguished by a shared loyalty or affection in the form of patriotism.

A nation-state is a geographical entity whose is the shared sentiments of a community based on history, language, religion or civilisation. But some do not consider India as a nation-state. They argue the basis of the foundation of a nation-state is single nationality; in such a society people share a single common language, culture or even religion. Since India's large population with diverse languages, share different cultural histories, religions, she is a multinational state, a nation-state. *Nation* may refer to a large group of people who share a common language, culture, ethnicity, descent, or history. It also says *nation* can refer to "a people, race, or tribe; those having the same descent, language, and history."

4.1.9.1 Definitions

Various philosophers have defined the term Nation on their own ways and few of them are discussed as under.

Oommen defines nation: when an ethnic group identifies itself with a territory as its homeland it becomes a nation. The different routes to identifying with the territory are: birth, immigration, colonization and conquest. According to him as and when an ethnic becomes a nation, it aspires to establish an exclusive or political roof over itself i.e. a state. An ethnic need not only move towards nationhood but its members can skip a stage and become citizens of a state. National building filled the gap between nationality and citizenship.

Paul Brass defines nation: the process of nationality formation is one in which

objective differences between ethnic groups acquire increasingly subjective and symbolic significance, are translated into consciousness of and a desire for group solidarity.

Boyd Shaper opines that an accepted nationalism as a sentiment or emotion that binds a group of people with a real or imagined historical experience and common aspirations to live as a separate and distinct group.

Herder's definition provides that nationalism is a process to a form of culturalism that emphasizes an awareness and appreciation of national traditions and collective memories instead of an overtly political quest for statehood. Herder's culturalism is that nations are natural or organic entities that can be traced back to ancient times and will continue to exist as long as human society survives.

Ernest Gellner opines that nationalism is linked to modernization and to the process of industrialization. According to him, emerging industrial societies promoted social mobility, self striving and competition and so required a new source of cultural cohesion which was provided by nationalism.

According to defining feature of national consciousness is the aspiration to self government and independence and the defining feature of nationalism being its capacity to represent the material or economic interests of a national group.

Anthony Smith provides his views by challenging the idea of a link between nationalism and modernization by highlighting the continuity between modern nations and pre-modern ethnic communities, which he called 'ethnics'. According to him, nations are historically embedded; they are rooted in a common cultural heritage and language.

Smith nevertheless acknowledged that although ethnicity is the precursor of nationalism, modern nations came into existence only when established ethies were linked to the emerging doctrine of political sovereignty.

Eric Hobsbown highlighted the degree to which nations are 'invented traditions'.

Rather than accepting that modern nations have developed out of long established communities, Hobsbawm argued that a belief in historical community and cultural purity was invariably a myth.

Benedict Anderson termed nationalism as ‘imagined community’. According to him, nations exist more as mental images than as genuine communities that require a level of face to face interaction to sustain the nation of a common identity.

4.1.10 NEED FOR NATIONALISM

The nationalism needs supreme loyalty. For its betterment, people need to be organized politically. Thus there should be authority which should be followed. The nationalism can be categorized as according to requirement of society. We have few categories in the form of models, these are discussed as below:

- 1. Cultural Nationalism:** there is one common cultural civilization e.g. Hindu which binds all into a nation. Under this, no differences are recognized. Differences are seen with suspicious as they are dangerous. So there always lies a need to emphasis on common identity, homogeneous model. It negated natural heterogeneities. it imposes a sort of hierarchy because it imposes Hindu culture over other. It leads to inequality, divisive society based on the concept ‘We’ and ‘They’.

Homogeneous culture automatically negates anything that does not fit in Hindu culture. Thus it leads to imposition of artificial homogenization which creates power structures in society and leads nation not to exist in mind but in heart of the people.

- 2. Composite Nationalism:** it is based on attaining unity by dealing with differences. It is a Nehurianian’s concept of “Melting Politics”. It emphasizes on tolerance and respect for differences. But at the same time this model creates difference as a problem. It leads to problem of assimilations, e.g. assertion of Sikh identity, objection on special status to Kashmir identity.

3. **Pluralist Model:** it is based on experience of Afro-Asian nation. According to this model, plurality has been the basis of our society and thus acts as a source of building a nation of plurality with differences.

Along these models, Oommen describes several ways in which nation has been interpreted. As according to him, nation is a fusion between territorial and cultural entity. He referred the nation as a

1. Civilization entity
2. Cultural entity
3. Political entity

It reflects two things:

- a) That it may or may not be an accomplished political community, but it certainly is an imagined community.
- b) That it is a political community, for though based on a sense of cultural distinction devoid of political element.

It means nation is a supra-local entity and culturally distinct location entity. Moreover, this literature generally gives the list of constituents of nation and these are:

Common history, territory, language, religion and culture apart from the subjective will of the people. Further Oommen rejects religion in the light of South Asian experience and foregrounds territory and language as key constituents of nation. Thus, the constituents of nation vary from case to case. In one case, language may be the basis of nation formation whereas in another case, it could be religion or historical forces. It is but very necessary to distinguish between two levels of conceptual constituents of nation which acts as the basis of nation formation:

1. Operative
2. Normative

If nations exist, they exist as imagined artifices, constructed for us through education, the mass-media and a process of political socialization.

4.1.11 MECHANISM TO PROMOTE NATION-BUILDING

India represents the composite culture. In India we see the existence of “Unity in Diversity”. Normally two types of policies are followed by nations to promote national unity; first, the policy of assimilation and second, the policy of integration. India has adopted the second approach. Thus India allows the existence of various religious and linguistic minorities. Indian constitution not only gives freedom to practice or propagate religion, it also gives special rights to minorities to conserve their culture. This philosophy of integration is theoretically linked to the ideology of the Congress party. Against this strategy, the rightist sections of Indian society talk about the adoption of the policy of assimilation. It means all people living in Hindustan can be called Hindus and we should make an attempt to develop single identity of the nation.

After Independence, India engaged itself with the project of nation-building. In this project, India has adopted different mechanisms.

- 1) **Provisions in Constitution:** Indian constitution has made provisions for the protection of the rights of minorities. It also makes provision of affirmative action for Schedule Castes, Schedule Tribes as well as for OBC's. This was an attempt made in the constitution to integrate different sections of society. It was an attempt to build an Indian identity based on the concept of pluralism. It was an attempt to challenge Jinnah's two nation theory as well as to bring those sections of society which were otherwise on the margins.
- 2) **India has adopted the structure of Federalism:** Federalism is a mechanism that gives sufficient autonomy to different groups within the framework of one single nation. Indian constitution makes elaborate provisions with respect to the distribution of legislative powers between centre and states. Certain regions were given special status i.e. J&K and tribal areas. Later on country

was reorganized on linguistic lines to end the tendencies towards separatism and dis-integration. Besides the constitutional provisions, central government also created bodies like Inter-State Councils, National Development Council, Zonal Councils to promote cooperative federalism in Indian context.

- 3) **Democracy:** The project of nation-building is inseparable from the project of building democratic polity. The universal adult franchise and the introduction of 73rd and 74th amendment acts provide the scope to the people to participate in politics and to communicate their interests and to interact with national politics. Freedom of expression and related freedom of press, right to information are granted to promote the culture of modern politics in Indian context. Once democratic culture takes ground, people leave the bases of traditional identity. It is said that the existence of free media provided government with the information about the public opinion. Government can take prior steps in the situation which may result into the growth of ethnic conflict.
- 4) **Development Strategy:** Nehru-Mahalonobis model of centralised planning aimed at the promotion of planned and balanced regional development in the country. The central planning aimed to integrate nation in the most rational way. Once economic development and growth takes place, the living standards of people improve. People develop a sense of commitment with the nation. The reason being the basic interests of the people get interlinked with the growth of the nation.

Thus the above mechanisms were adopted to tackle the forces of separatism in democratic manner. Besides these provisions, Indian constitution also made provisions for dealing with extreme type of situations. Thus it provides for the emergency provisions as well as provision related to preventive detention.

4.1.11.1 Rise of National Consciousness in India: Socio-Economic Factors

Traditionally, India didn't exist as a nation. After the establishment of British rule, the British policies led to the emergence of new social classes belonging to diverse sections. Their interests were jeopardized by the existence of British rule in India. This led to mobilization of these new classes (nationalistic mobilization). Leadership played pivotal role in articulating and aggregating the diverse interests so that people favour the idea of national freedom.

National community according to E.H. Carr, nations represent a human group with following characteristics-

1. Idea of a common government whether a reality or future aspirations.
2. More or less defined territory.
3. Existence of certain characteristics especially language which distinguishes the group from all other groups.
4. Shared interests among the members of the group.
5. A sense of 'we' feeling among the members of these groups.

India as a society doesn't share these characteristics traditionally. But subsequently in the 20th century, these attributes did develop in India and came to be organized as nation. These changes were brought about by the British rule in terms of the rise of certain new classes who developed a shared and common interests i.e. abolition of British rule in India, as the economic interest were threatened by the British rule. Subsequently, they also developed a state in the process of the nation building that was embarked after independence. This convergence of interest of diverse section had led to the acceptance of national ideology.

Nationalism in the context of western societies is viewed as the product of rise of capitalism but traditionally Indian economy belongs to pre-capitalist mode. During

the medieval time, certain economic features were conducive to capitalism but it never developed. Overwhelmingly, Indian economy was agriculture and rural communities in India existed as self sufficient subsistence economy with little interaction outside the local cluster of villages. Although in medieval India, handicraft industries did develop but they were not organized on capitalistic lines. These pre-requisites couldn't mature so as to lead to capitalistic transformation. The political powerlessness of bourgeois and the toughness of self sufficient village economy were the factors due to which the evolution of Indian economy inhibited the rise of capitalism. Moreover, people live with parochial or regional identity and therefore, it failed to develop secular nationalist identity.

As a result of British conquest for reaching changes were introduced in Indian society by Britishers. In Agriculture, the institution of private property land was introduced. Land itself became commodity to be bought and sold. Zamindari, Mahalwari and Ryotwari system being introduced. Due to these measures land alienation became a common phenomenon, monetization of rural economy, commercialization of agriculture, polarization of rural village society into classes and centralized state came into being.

Village society but steadily became transformed from a self governing community into an administrative unit of the centralized state and dependent economic part of the national economy. New state expropriated the village of its possession of the pastures and forest land in its proximity regarding forest laws which brought about its change.

Patta Sita Ramaya opines that with a single stroke of pen government has extinguished the immemorial communal rights of the ryots and the village society has thus been revolutionized. That simultaneously broke the physical and cultural isolation of the villages. Further it got facilitated by new means of transportation and communication.

4.1.12 NATION BUILDING AND STATE BUILDING

A nation is always in the process of making or unmaking itself. It is never a static

entity. Developing world states have encountered particular problems in their struggle to achieve a national identity. Such nation can be described as political:

- 1) They achieved statehood only after a struggle against colonial rule. Third world nation tends to have a strong anti colonial character.
- 2) These nations have often been shaped by territorial boundaries inherited from their former colonial rulers e.g. In Africa.

National identities are constructed by marginalizing ethnic identities or particularistic identities and people are becoming aware of the threat to particularistic identities and they are asserting. It happened in India where the imposition of Hindi as national language was resisted by South Indians.

National building is considered as the requirement for state building because it is recognized in the colonial period that state authority will be challenged in the future as political power in ethnic composition. Nation building was designed to create more coherence in the state structure. Modern state believes in centralization of power, it will erode the autonomy of the diverse culture state.

Nation-building refers to the process of constructing or structuring a national identity using the power of the state. This process aims at the unification of the people within the state so that it remains politically stable and viable in the long run. Nation-building can involve the use of propaganda or major infrastructure development to foster social harmony and economic growth.

Nation building was designed to create a new nation and by creating a new nation to bridge the gap between state and nations so that state can become coherent, efficient and representative. But in the process it has widen the gap because nation suitable for South Asia was neither unitary nor uniform. The nation is plural as well as federal. No identity is singular even identity is multilayered. That is why, the identity become a problem

4.1.12.1 Ethnicity and Nationalism

Conceptually ethnic diversity challenges the nation-state. Originally, nation-state as apolitical formation was based on the concept of one nation one state. Over the years, there has emerge the situations which can be treated as many nations under one state. Hence existence of ethnic diversity can be treated as a challenge to the project of nationalism. Most of the states fear that such differences would result into fragmentation of the state. Accommodating ethnic differences is politically challenging. States adopt different strategies to meet this challenge. The political strategies which are commonly adopted are the concept of secularism, federalism and promotion of economic development and modernization. India has also adopted such policies for the sake of keeping the national unity and territorial integrity intact. However, at times states have to take strong actions i.e. police and military actions for meeting such type of challenges. India has the emergence of ethnic movements that have challenged the sovereignty of Indian state and nation-building.

Most of the major religious of the world namely Hinduism, Islam, Christianity and Buddhism are found here. Indian society is pluralistic in character. It has a composite culture; it has diverse ethnic groups, religious, languages and regions. Every Indian is integrated to his nation and at the same time he is loyal to differential group in which membership is held. It is unnatural and impossible to eliminate differential loyalties of people. There is always perennial fear that loyalties based on any one of them can always make appearance in political term from the ethnic groups. The feeling of ethnicity may always crystallize from regional loyalties. The regionalism can precipitate from sharing the same language.

4.1.13 CHALLENGES TO NATION-BUILDING

The threats to integration are contained in the very nation of diversity. Loyalties substantiated on any basis, may demand separate region for them a state or they may show concerned for fission of the country.

After getting independence, the leaders had three main challenges in front of them due to the conditions prevailing at that time. These were: first, to shape a nation that was united, yet accommodative of the diversity in our society; second, to establish democracy based on the parliamentary form of government and third, to ensure the development and well-being of the entire society irrespective of region, religion, culture, gender, caste etc.

Nodoubt, the country has tried to overcome these challenges but could not completely win over them. India is still a nation in the making. As Rajni Kothari observes, “the problem of national integration is the fundamental problem of political development”.

4.1.6.1 Major Obstacles to the Process of Nation-building:

In essence, there are certain major aspects of the problem. They are as under:

Firstly, **Communalism** continues to be a major stumbling block in achieving national integration. The policy of ‘divide and rule’ used by British to serve their interest, continues to plague Indian society in more robust forms. The frequency of communal riots is high; Godhra riots and many smaller ones severely damage the prospect for national integration.

Secondly, **Regionalism and sub-regionalism** continue to affect India. It is true that a multicultural society like India cannot aspire to be a homogeneous one, but the fissiparous demands add to the woes of the polity.

Thirdly, **Politics of populism** exploits the inherent structural dimensions of Indian Society. The use of caste, creed, colour or sex as a tool to mobilize votes continues to be a black spot on the political process.

Fourthly, **Poverty and illiteracy** have continuously created apathy among Indian nationals. They have shown disenchantment with the polity and remain preoccupied either with their conventional ethos and way of life or turn to violent methods. Story of tribes and Naxals speak volumes about their either anti or non-Indian stands.

Fifthly, **Politics of violence and movements** centered on sectarian goals damages not only the political propriety but also a belief in the strength of the nation. Anarchy and political turmoil created by these forces hinder the pace of unity and integration.

Sixthly, the **inadequate distribution of goods and services** continues to result in creating disillusionment among crores of people who have till now owed allegiance to the nation.

Lastly, Development Challenges: India comprise of different regions, some of which are most backward and poor. The widespread poverty, unemployment, scarcity of resources is serious bottlenecks in attaining economic equality. The development as a result of modernization has resulted in concentration of economic resources and wealth in the hands of few people. As a result a vast gap has been developed between the haves and have not.

4.1.14 LETS SUM UP

India is a plural society and the population is divided on the basis of race, religion, culture, ethnicity and language. These groups find themselves in conflict with each other when and wherever their interests clash with each other. A problem of majority and minority groups is there. Communalism, Caste, Regionalism, Politics of language, Political opportunism of political parties are acting as challenge in the consolidation of India as a nation.

M.A. Political Science, Semester I

Course Title : Indian Political System

Unit – IV : Politics of Representation and Recognition

4.2 CASTE: CHANGING NATURE AND ROLE IN INDIAN POLITICS

- Pankaj Kumar Sharma

STRUCTURE

4.2.0 Objectives

4.2.1 Introduction

4.2.2 Caste System: Meaning and Definitions

4.2.3 Impact of Caste

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1.2.6 Summing Up

4.2.0 OBJECTIVES

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

- define caste system and describe the features of caste system;
- state the changes in the caste system;
- the role played by the caste in Indian politics;
- able to analyse the changing nature of caste
- how the mobilization of different groups has enhanced the legitimacy of Indian democracy

4.2.1 INTRODUCTION

Caste is one of the major factors in politics of India. Till the mid-1970s, the politics of independent India was largely dominated by economic issues and questions of corruption. But since 1980s, caste has emerged as a major issue.

After India gained independence, the political discourse on caste was dominated by political parties which have openly indulged in caste-based vote-bank politics. In the 1990s, many parties such as the Bahujan Samaj Party, the Samajwadi Party, and the Janata Dal started claiming that they represent the backward castes. Many such parties, relying primarily on the support of the backward classes, often in alliance with Dalits and Muslims, rose to power in some Indian states.

4.2.2 CASTE SYSTEM: MEANING AND DEFINITIONS

Caste is an important feature of the Indian society. It is rooted in the Varian system of social hierarchy, which places Brahmins at the top and Shudders at the bottom

of the society. In the traditional Indian society, caste was a localized hereditary group with a particular association to an occupation. Pollution and purity were important in governing the relations amongst these caste groups. Ideas of purity and impurity expressed themselves in various ways in inter caste relations. Higher castes were prohibited from accepting cooked food and drinking water from the lower castes. The lower castes were prohibited from coming into close physical contact with the higher caste or entering the inner portions of their house. The lower castes were also denied the use of the streets where the higher castes lived as well as the use of public wells and entry into high caste temples.

For purposes of definitions, therefore, the following features of caste system become evident :

- 1) Memberships in a caste was by birth.
- 2) Caste was an endogamous unit
- 3) Members of each caste traditionally had an occupation or trade to pursue
- 4) Castes were graded in a local hierarchy
- 5) Notions of pollution and purity governed the nature and extent of the relationships between castes.

A significant change in rural and urban India today is the growing dissociation between caste and hereditary occupation. Occupation is no longer a certificate of one's caste. The carpenter in the village is no longer from the carpenter caste, nor is the blacksmith from the blacksmith caste necessarily. There are various factors responsible for the dissociation between caste and occupation. For example, the adoption of modern constitution and legal system after independence has rendered the 'Caste Panchayats' redundant, which traditionally regulated the caste, occupation relations in the society. The second factor responsible for caste- occupation dissociation is the decline of the Jajmani system, which not only enabled members of a caste to establish their claims to livelihood but also exclusive right to their

hereditary occupation. The dissociation between caste and occupation has been further accelerated by other factors such as industrialization, urbanization, spread of education and the emergence of new occupations.

The caste system in India can be described as an elaborately stratified social hierarchy, distinguishing India's social structure from any other nation. The history of the caste system is multifaceted and complex. Dating back to 1200 BC the caste is a term which is used to specify a group of people belonging to a specific social rank. The word caste derives from the Portuguese *casta*, meaning breed, race, or kind. Among the Indian terms that are sometimes translated as caste are *varna*, *jati*, *jat*, *biradri*, and *samaj*. All of these terms refer to ranked groups of various sizes and breadth. *Varna*, meaning colour, actually refers to large divisions that include various castes; the other terms include castes and subdivisions of castes, sometimes called subcastes.

4.2.2.1 Definitions of Caste

The term Caste is derived from a Portuguese word 'Casta' which means breed or race. According to **Beteille** (1965), a caste is a small and named group of people which is characterized by endogamy, hereditary membership and a specific style of life. This life pattern includes the pursuit of a particular occupation, usually linked with a more or less designated ritual status in a hierarchical system. Hypothesis of purity and pollution provides the basis for social hierarchies. This definition highlights some of the characteristics of caste: its hereditary nature, the pursuit of traditional occupations, hierarchical rank, endogamy and the practice of pollution rites.

According to **Maclver and Page**, when status is wholly predetermined so that men are born to their lot without any hope of changing it, then the class takes the extreme form of caste. **Cooley** says that when a class is somewhat strictly hereditary we may call it caste. **M.N Srinivas** sees caste as a segmentary system. Every caste for him divided into sub castes which are the units of endogamy whose members follow a common occupation, social and ritual life and common culture

and whose members are governed by the same authoritative body viz the panchayat. According to **Bailey**, caste groups are united into a system through two principles of segregation and hierarchy. For **Dumont**, caste is not a form of stratification but as a special form of inequality. The major attributes of caste are the hierarchy, the separation and the division of labour. **Weber**, sees caste as the enhancement and transformation of social distance into religious or strictly a magical principle. For **Adrian Mayer**, caste hierarchy is not just determined by economic and political factors although these are important.

M.N. Srinivas, the well known anthropologist, is a major proponent of the view that 'the caste system in India is not declining but growing more powerful. Modern means of communication, the spread of education and an increase in prosperity have contributed to the strengthening of the caste system, especially through the formation of caste associations which cover large area and utilize the means of communication and organization made available through technological progress in order to strengthen their hold upon members of the caste and to mould their activities.'

According to **Risley**, caste is a collection of families or groups of families bearing a common name; claiming a common descent from a mythical ancestor; human or divine professing to follow the same hereditary calling; and regarded by those who are competent to give opinion of forming a single homogenous community. The name generally denotes or is associated with a specific occupation. A caste is almost invariable endogamous in the sense that a member of the large circle denoted by a common name may not marry outside that circle, but within the circle there are usually a number of smaller circles each of which is endogamous.

Ketkar defines a caste as a social group having two characteristics (i) membership is confined to those who are born of members and includes all persons so born (ii) the members are forbidden by an inexorable social law to marry outside the group. Each one of such groups has a special name by which it is called several of such small aggregates are grouped together under a common name, while these larger

groups are but subdivisions of groups still larger which have independent names.

G.S. Ghurye, has defined caste and enlisted its six outstanding characteristics: Endogamy, Hierarchy, Restrictions on consensual relations between castes, Restriction on choice of occupation, Civil and religious disabilities and Privileges of certain groups, and Untouchability. It follows that membership is fixed for life, because the individual cannot alter his caste by any effort of his own. Further he makes a distinction between caste societies and class societies by arguing that ‘the status of a person in a caste society depended not on his wealth as in the classes of modern Europe, but on the traditional importance of the caste in which he had the luck of being born.

Caste is a system of social stratification. Caste differs from class. Class is a system of stratification in modern societies. It is based on person’s merits and achievements. On the other hand, caste system is not based on achievement, but on the criteria of birth. Caste system is sustained by the concept of purity and pollution.

The Indian term of caste is Jati. According to the ancient Hindu scriptures, Manusmriti, there are four varnas. The Bhagvad Gita says Varnas are decided based on Guna and Karma. The various jatis are traditionally arranged in hierarchical order and fit into one of the four basic varnas.

- The varna of Brahmans, commonly identified with priests and the learned class;
- The varna of Kashatriyas, associated with rulers and warriors, but also including property owners;
- The varna of Vernaashyas, associated with commercial livelihoods (i.e., traders); and
- The varna of Shudras, the servile labourers. (agriculturalists, service providers etc)

- Another group excluded from the main society was called Parjanya or Antyaja or Untouchables (now called Dalits) was considered either the lower section of shudras or outside the caste system altogether.

According to the Rig Veda, the sacred texts of the Hindu religion dating back to oral traditions of more than 3,000 years ago, the progenitors of the four ranked varna groups sprang from various parts of the body of primordial man, which Brahma created from clay. Each group had a function in sustaining the life of society – the social body. Brahmans or priests were created from the mouth. They were to provide for the intellectual and spiritual needs of the community. Kshatriyas, the warriors and rulers, were derived from the arms. Their role was to rule and to protect others. Vaishyas – landowners and merchants – sprang from the thighs, and were entrusted with the care of commerce and agriculture. Shudras – artisans and servants – came from the feet. Their task was to perform all manual labour.

4.2.3 IMPACT OF CASTE

1) **Functional Aspect:** According to **Rajani Kothari**, caste has led to the democratization of Indian society. It has allowed the marginal sections of society to join the mainstream of politics. It has led to the federalization of Indian politics. He discusses the three contributions of caste:

- i. At Conscious level – the association of caste in politics results into the development of modern values.
- ii. At Integration level – it has better integrated man with his root.
- iii. At Secular level – it has resulted into better life chances for the people belonging to lower castes.

It is said that democracy in other third world countries failed because they lacked structures of mobilization similar to caste. Therefore caste in India has provided the structures for mobilization of Indian society.

2) **Dysfunctional Aspect:** According to MN Srinivas and scholars like Frank caste has increased the political violence in the country. Caste senas exists. Gujjar violence in Rajasthan is an example. According to **CP Bhambri**, caste does provide the bases for mobilization but, it is not a healthy trend in the long term. It can prove detrimental to national unity. Just like religion, the identity of caste is also not healthy. It can divert attention from other pressing issues like corruption, development and poverty. It is said that caste based politics results into religion based politics. Against the caste based politics of Congress, BJP has played the card of religion.

4.2.4 CASTE CHANGING NATURE AND ROLE

According to **Andrae Bettle**, caste has become the favourite topic of discussion in India. Caste has become the universal feature of Indian politics. According to Myron Weiner, caste is one of the most important determinants shaping Indian politics. Caste is not going to disappear from Indian social and political systems. Indian political system does not abolish caste rather institutionalize caste.

According to **MN Srinivasan**, caste is present at subconscious level in India. Thus caste is going to be present in some form in Indian politics. From the point of view of Srinivas, it is very natural among Indians to think that they share interests with the members of their caste. Hence we can see the interaction between caste and politics in Indian politics.

According to the political scholars, Indian Constitution itself provides the bases of linking caste with politics. They feel that Indian constitution is anachronistic. Indian constitution has contradictory provisions. On the one hand, it talks about the abolition of discrimination on the basis of caste and at the same time it gives reservations on the basis of caste criteria in both legislatures as well as in public employment. Indian constitutions aims to abolish caste based discrimination. For this purpose, it adopts affirmative action based on the criteria of caste.

4.2.4.1 Strengthening Caste in Contemporary Times

In a wide range of social and economic activity, caste considerations plays more than a marginal role. Modern means of communication, spread of education, increased prosperities, expanding political opportunities and formation of caste groups or organization, increasing politicization has led to horizontal mobilization which resulted into castes on preserving their identity and culture, have strengthened the bonds of caste with greater vigour. **Rajani Kothari** viewed that Secularism, class consciousness, modern education and equality of access and opportunity were supposed to reduce the potency of caste in the social process and eliminate with time but these efforts have not succeeded.

According to **DN Sheth**, caste is present in Indian politics in following forms:

- 1) there are caste based political parties and pressure groups
- 2) whenever parties choose candidate, they keep in mind the caste composition of the electorate and nominate candidate accordingly.
- 3) Whenever governments are formed, parties ensure that different castes get their representation in government.
- 4) Parties form caste based alliances e.g. AJGAR (Ahir, Jats, Gujjar and Rajput) coalition in Rajasthan; with the addition of Muslims in U.P and Bihar, it became MAJGAR or KHAM (Kshtriya, Harijan, Ahirs Adivasi, Muslims) in Gujarat, Muslim-Yadav combination in UP, Bihar.
- 5) Indian politics show caste based polar political categories like Brahamins Vs Non-Brahmins in Tamil Nadu; Kammas Vs Reddy's in Andhra Pradesh; Lingayat Vs Vokkaligas in Karnataka; Nayar Vs Ezhavas in Kerala.
- 6) There are caste based political ideologies.
- 7) There are caste based idioms like mandalisation or castigation of politics or casteism etc.

The above roles of caste in politics are termed as 'casteisation of politics' by Rajani Kothari or 'Traditionalisation of modernity' by Rudolf and Rudolph. It can be said that not only caste makes an impact on politics but it is a two way relationship. Politics has also influenced caste system and caste identities. Today politics has led to the secularization of caste. It means caste identity is no more important for moving the temporal aspects of life. Its ritualistic aspects are not so important. Rudolph and Rudolph call these phenomena as democratic reincarnation of caste. MN Srinivas calls it new Avtaar of caste.

Today various caste groups enter into coalition with each other. Thus politics has resulted into greater dialogue and negotiations among castes. Each caste group tries to become bigger by incorporating within it the neighbouring caste which was earlier excluded.

Politics has brought new caste categories like backward castes and forward castes. Politics has allowed scope for dalits and OBC's better access to the decision making apparatus.

Caste has become the trump cards for politicians to swell their vote banks. Casteism still rules the roost with all modernism one can boast of and politics relies so heavily on caste loyalties. According to Weiner, "Caste as [...] a lived-in social reality is very much alive", not only because of its long historical continuity, but precisely also because it is generously nurtured by the political processes and political mobilization which appeals to caste membership. Caste is used "as an instrument for social change. Caste is not disappearing, nor is 'casteism' – the political use of caste – for what is emerging in India is a social and political system which institutionalizes and transforms but does not abolish caste". The Indian political parties are well aware that to build the electoral support and vote banks it is necessary to appeal to particular castes, tribes and religious communities. The caste rhetoric emerged especially in the context of mobilization of the lower castes especially by the India National Congress, which introduced the system of affirmative action – reservations – for scheduled castes and tribes. The caste thus became especially salient in

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mobilizing and organizing lower castes - with a long history of social, political and economical discrimination – in their struggle for equality, same opportunities and incorporation into the political system and processes of decision making. “Caste, once an instrument for the maintenance of hierarchy, is, paradoxically, seen as a vehicle for egalitarianism between castes, though not within them.”

4.2.4.2 Factors responsible for Increasing Role of Caste:

- 1) India lacks modern bases of mobilization. Caste provides a platform for collective mobilization in traditional society.
- 2) The Green revolution is responsible for increasing the importance of OBC factor in Indian politics.
- 3) The Reservation policy will never allow the end of caste politics.
- 4) Caste politics has expanded in almost all parts of India. Initially, South India was primarily affected by caste politics, but today both North as well as South India is affected. Earlier caste factor was more important at the state politics. Today it has become crucial at both levels, state and national.
- 5) The coalition politics at the national level has increased the significance of caste factor and in fact it is the result of caste factor.

The Samajwadi Party is based primarily in Uttar Pradesh, where its support is largely dependent on OBCs and Muslims, particularly Mulayam Singh Yadav’s own Yadav caste. It has made sustained efforts to gain national status by contesting Lok Sabha and State Assembly elections around the country. The Bahujan Samaj Party (BSP), which was founded by Kashi Ram on 13 April 1984, a Dalit from Punjab is similar to the SJP. Angered by the class discriminations, Kashi Ram came to believe that caste and class were the real issues in Indian politics and that, for thousands of years, the lower castes had been oppressed by the upper castes. All these new political groups fielded scores of lower-caste candidates, in acknowledgement of the fact that the OBC – constituting the relative majority all

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over India – voted for their own candidates rather than upper caste notables. As a result, the proportion of OBC-elected representatives in northern India climbed from 11 per cent in 1984 to 25 per cent in 1996; that of upper-caste elected officials dropped from 47 to 35 per cent. It was during these years that lower-caste parties seized power in Bihar and UP, two states where they still reign today. The parties have adopted strategy of **co-opting lower-caste leaders** for **attracting lower-caste voters e.g. BJP-Kalayan singh in UP**; Jagjivan Ram, B.P. Maurya, Chedilal Sathi were fine examples of Congress co-option strategy. The affirmative action provided hardly any incentive for scheduled caste MPs and MLA's to foster political consciousness of the Low caste. It was largely because the reservation policy worked as the “smokescreen of the egalitarian discourse”.

4.3.4.3 Mandalization of Politics

The Mandal Commission was established in 1979 by the Janta Party government under Prime Minister Morarji Desai with a mandate to “identify the socially or educationally backward”. The Commission was set up to consider the question of seat reservations and quotas for people to redress caste discrimination, and used eleven social, economic, and educational indicators to determine “backwardness”. In 1980, the commission's report affirmed the affirmative action practice under Indian law whereby members of lower castes (known as other Backward classes and Scheduled Caste and Tribes) were given exclusive access to a certain portion of government jobs and slots in public universities, and recommended changes to these quotas, increasing them by 27% to 49.5%. L R Naik, the only dalit member in the Mandal Commission refused to sign the Mandal recommendations, as he feared that well-to-do OBCs would corner all the benefits of reservation.

4.3.4.4 Vote Bank Politics

Many political parties in India have openly indulged in caste-based votebank politics. A decade after the Mandal commission gave its report, V.P. Singh, the Prime Minister at the time, tried to implement its recommendations in 1989. Many alleged

that the politicians were trying to cash on caste-based reservations for purely pragmatic electoral purposes.

In 1990s, many parties Bahujan Samaj Party (BSP), the Samajwadi Party and the Janata Dal started claiming that they are representing the backward castes. Many such parties, relying primarily on Backward Classes support, often in alliance with Dalits and Muslims, rose to power in Indian states. At the same time, many Dalit leaders and intellectuals started realizing that the main Dalit oppressors were so-called Other Backward Classes and formed their own parties, such as the Indian Justice Party. The Congress (I) in Maharashtra long relied on OBCs' backing for its political success. Bharatiya Janata Party has also showcased its Dalit and OBC leaders to prove that it is not an upper-caste party. Bangaru Laxman, the former BJP president (2001-2002) was a former Dalit. Sanyasin Uma Bharati, former CM of Madhya Pradesh, who belongs to OBC caste, was a former BJP leader. In 2006 Arjun Singh cabinet minister for MHRD of the UPA government was accused of playing caste politics when he introduced reservations for OBCs in educational institutions all around.

In Tamil Nadu, the Anti Hindu DMK party rose to power under the canard of "Brahmin oppression", resulting in reverse discrimination against the upper caste Brahmins.

4.2.4.5 Mobilisation of castes

Congress had a tag of catch all party but the dalits, adhivasis peasants, workers were kept at a distance from the position of power. Party politics and electoral politics provided platform for mass mobilization, though the base was provided by anti-colonial struggle which was further widened by the introduction of universal adult franchise. The most important impact of electoral process was the evolution of structure of cleavages and evolving the politics from consensus based to a politics of competing cleavages.

Electoral system based on the mass mobilization resulted in politicisation of all possible platforms. The period of 1980s and 90s witnessed the rise of dalits and OBCs in Indian politics. In South India, OBC had already made their presence felt in 1960's. the political upsurge around the caste cleavages was not limited only to OBC's, even the dalits were mobilized by parties like BSP. Under Kashi Ram leadership BSP started having its influence in Punjab, Haryana and U.P.

4.2.4.6 Sanskritization

Sanskritization was used by Prof M.N Srinivas to describe the process of cultural mobility that is taking place in the traditional social system of India. It is the process by which a low Hindu caste or tribal or other group changes its customs, rituals, ideology and way of life in the direction of high and frequently twice-born caste. The lower castes collectively try to adopt upper caste practices and beliefs to acquire higher status. M.N Srinivas in his study of the Coorg in Karnataka found that lower castes in order to raise their position in the caste hierarchy adopted some customs and practices of the Brahmins and gave up some of their own which were considered to be impure by the higher castes. For example they gave up meat eating, drinking liquor and animal sacrifice to their deities. They imitated Brahmins in matters of dress, food and rituals. By this they could claim higher positions in the hierarchy of castes within a generation. The reference group in this process is not always Brahmins but may be the dominant caste of the locality. Sanskritization has occurred usually in groups who have enjoyed political and economic power but were not ranked high in ritual ranking. According to Yogendra Singh the process of sanskritization is an endogenous source of social change. Mackim Marriot observes that sanskritic rites are often added on to non-sanskritic rites without replacing them. Harold Gould writes, often the motive force behind sanskritisation is not of cultural imitation per se but an expression of challenge and revolt against the socioeconomic deprivations.

4.2.4.7 Caste Atrocities

Independent India has witnessed considerable amount of violence and hate crimes motivated by caste. Ranvir Sena, a caste supremacist fringe paramilitary group based in Bihar, has committed violent acts against dalits and other members of Schedule caste community such as cases of rape of dalit women, kidnapping and abduction, causing hurt; deprivations due to illiteracy, ill health, bonded labour, child labour, extreme poverty. Prevention of atrocities Act 1989 implementation is unsatisfactory because of civil society refused to change its mindset; caste based hierarchial social structure; rural dalit at the bottom and outside the caste order.

Politicization and increased consciousness of caste, results in caste violence also. It occurs at different levels. At one level it occurs because of a widespread feeling of discontent that the benefits of reservation have gone to the more influential and urban forward castes or an elite within the lower castes. The policies of protective discrimination, land reforms and other welfare measures have not significantly changed the status of the very low castes. Among the rural Scheduled Castes, it is seen that social mobility of the individuals takes place only after they have moved to urban areas, the social conditions of those left behind remain unchanged. Attempts by the lower castes to carry over their urban status, into their villages results in inter caste violence. The Scheduled Castes infact, have been the target of attacks time they have tried to assert themselves. A very recent case of violence on Dalits was reported on 20 October 2000, in Bilampur village in Barabanki district, some 20 kilometers away from Lucknow where the Thakurs of nearby Haohari village beat up the Dalit youth with sickles, spears and threw acid on them. The cause of violence reportedly was a dispute between the Thakurs and the Dalits over fishing rights in the local Mataila lake. Violence sometimes is an expression of protest to avenge humiliation as happened in Mata Ramabai Ambedkar Nagar in Ghatkopar - Mumbai in Maharashtra, when Ambedkar's statute was desecrated or to resist homogenization on the part of parties to manoeuvre caste to suit their interests. How deftly the parties manage to aggregate the different caste groups determines

their success or failure. But Dalits and the lower castes today are far less vulnerable than they were in the past. This is possible, because democracy has empowered these groups, opened up spaces for them to offer resistance and mobilize their group interests.

Hindu nationalist, who perceive the reservations as creating fission and conflicts within the Indian society which they are trying to unite under the ideology of Hindutva (and thus weakening it in the face of the threat of the Muslim Other), oppose the system of reservations, lower and middle classes mainly support the system of reservations and perceive it as a matter of social justice for victims of the Brahmin dominated caste system.

4.2.4.8 Caste: An Instrument of Politics

After independence, it was thought that with the adoption of democratic institutions, the caste system would disappear. But scholars like Rajani Kothari did not agree with this point, who opined that the democratic institutions need a social base. The power of the ballot turned out to be the main motivation for the reactivation of caste identities. The Congress, the largest and most dominant party of India, went along with the caste considerations of real politik. For instance, for the sake of preserving its vote bank, Congress patronized the Harijans, by instituting reforms and offering governmental assistance. Caste identities, instead of being eroded, were realigned on conspicuously political lines. In a way, this development rather reinforced caste and gave an impetus to caste-based organizations and associations which transcended the local boundaries.

The winning combination of “caste politics” and “nationalist ideology” secured for the Congress Party a dominant position in Indian politics for nearly three decades after independence. Thus caste system changed into power system by socio, economic and political forces through elections, political parties and above all by social policies.

Caste considerations dominate people's lives from birth to death. The understanding of the caste system and how it controls and regulates social, economic, political, and religious life in India is absolutely essential while interpreting the Indian reality. Any political party's tilt towards a particular section of society is reflected not only in its election manifesto but also in its policies when it forms the government, as it tries to appease its own vote bank alone. The marginalized sections of society are not considered as equal citizens of India, but only a vote bank of a particular political party.

Though it may be debatable that caste is the determining factor in Indian political development, it has definitely played a big role in politics. For instance, in many states, one or two castes dominate politics and political power; for instance, the Reddys in Andhra Pradesh, Lingayats and Vokkaligas in Karnataka, Marathas in Maharashtra, and so on. Electoral politics in general and distribution of tickets during elections in particular are based on caste calculations and vote banks, e.g. Muslim and Harijan vote banks which have been the stronghold of the Congress; such vote banks as AJGAR (Ahirs, Jats, Gujjars, and Rajputs, later becoming MAJGAR, with the addition of Muslims) in UP and Bihar; and KHAM (Kshatriyas, Harijans, Adivasis, and Muslims) in Gujarat.

According to ASHUTOSH VARSHNEY, "Weighed down by tradition, lower castes do not give up their caste identities; rather, they 'deconstruct' and 'reinvent' caste history, deploy in politics a readily available and easily mobilized social category ('low caste'), use their numbers to electoral advantage, and fight prejudice and domination politically. It is the upper castes, beneficiaries of the caste system for centuries, that typically wish caste did not exist when a lower caste challenge appears from below."

In recent history a number of factors have collectively increased caste activism in politics and re-crystallized the caste lines, adapting to the current institutional conditions. First of all, the Brahmin and upper caste support for Congress kept decreasing as they increasingly joined the Hinduist camp. Meanwhile, the scheduled

castes have been trying to find a non-Congress way for the amelioration of their problems.

The 1990s saw a growing number of cases where parties relying primarily on the support of backward classes, often in alliance with Dalits and Muslims, were catapulted to power in some Indian states. The Janata Dal governments in Bihar and Karnataka are excellent examples of this strategy. Elections in Bihar over the past one and a half decades have been dominated by caste- and community-related issues. In the India's biggest state, UP, the Congress was humbled by a regional and caste-based outfit, the Samajwadi Party (SP) under the leadership of the State Chief Minister, Mulayam Singh Yadav. The BJP too was routed here. Interestingly, the rise of the SP is inversely proportional to the fall of the Congress (I) in UP. In the 1996 Lok Sabha elections, the SP captured 20.83 per cent of the vote, wholly at the cost of the Congress (I). The Congress (I) could manage only 8.14 per cent of the vote and five seats. This was the same number of seats it bagged in 1991, but with a vote share of 18.3 per cent. Its performance was equally dismal in the 1996 and 2002 Assembly elections, with a vote share of 8.35 per cent and 8.96 per cent respectively, while that of the SP increased to 21.80 per cent and 25.37 per cent respectively.

SP commanded the support of the numerically strong Yadavs, the BSP had the consolidated support of the Dalits. The same trend has continued since then, with each caste group voting along expected lines exception in 2009 Lok Sabha elections.

Contemporary electoral politics of Uttar Pradesh is dominantly shaped by caste and community considerations. At the same time, while going through the electoral history of Uttar Pradesh, we also find that there had never been a time when the politics of the state was not coloured with caste and community factors.

BSP's electoral performance is an indicator of the rise of caste mobilization in Indian politics. In the thirteenth Lok Sabha elections, held in 1999, the BSP got 14 seats and the SP 27; and in the fourteenth Lok Sabha elections held in 2004, the BSP won 19 seats and the SP 36.

During recent years, caste mobilization has become an important factor in shaping Indian politics. The BJP and the Congress have followed different strategies of political mobilization. The BJP followed a path of sectional mobilization. The core of the BJP's support came from the upper caste, well-off Hindus. The Congress is a party that draws most of its support from the poor and socially disadvantaged groups. But the Congress faces a serious competition for the votes of these groups from regional parties that directly appeal to these communities.

Electoral compulsion forced the dalit political leadership and mainstream dalit parties into alliances with the two principal contenders for power – the Congress and the BJP – causing a loss of focus on the core issue of empowering dalits – socially, economically and politically.

All these new political groups fielded scores of lower-caste candidates, in acknowledgement of the fact that the OBC – constituting the relative majority all over India – voted for their own candidates rather than upper caste notables. As a result, the proportion of OBC-elected representatives in northern India climbed from 11 per cent in 1984 to 25 per cent in 1996; that of upper-caste elected officials dropped from 47 to 35 per cent. It was during these years that lower-caste parties seized power in Bihar and UP, two states where they still reign today.

India's political parties have found the caste-based selection of candidates and appeals to the caste-based interests of the Indian electorate to be an effective way to win popular support. The 1990s have seen a growing number of cases where parties, relying primarily on Backward Classes support, often in alliance with Dalits and Muslims, catapult to power in India's states. Janata Dal governments in Bihar and Karnataka are excellent examples of this strategy.

The various groups like the Nairs, Christians and Ezhavas in Kerala; the Khammas and Reddys in Andhra; the Marathas and Mahars in Maharashtra; the Jats, Rajputs, Meenas, Brahmins, Gujars etc in Rajasthan determine the political scenario in these states to a great extent.

Caste has polarized the national politics and caste politics breed caste parties. Not a single party avowedly opposes casteism and is free from the influence of it. Even the national parties whether Congress or BJP while allocating tickets to the candidates and portfolios to the ministers, do a proper analysis of caste factor. Caste tends to determine electoral nominations and voting behaviours now-a-days.

A major conundrum that has cropped up owing to caste politics is that many castes have started making numerous demands. Some want themselves to be categorized as OBCs and some want reservations, violating the representative principles envisaged under the democratic pattern of our country. A very bilious example is the *Gujar agitation* currently confronting Rajasthan. It has taken a great toll of innocent lives and has caused enormous destruction and damage to the National property. This vicious circle has started spreading its circumference to entire nation which can prove extremely dreadful to the interest of our nation and democracy, still our learned and experienced leaders both from state and central government are feeling helpless and pity.

BSP's traditional slogan of "Jai Bheem" (alluding to Dr. B.R. Ambedkar), but also "Jai Parashuram". Clearly, Parasurama had emerged as a new political icon of the BSP. Mayawati said that her party was never against the upper castes or the Hindu religion. "We were branded as anti-upper castes and anti-Hindu by *Manuvadi* vested interests, including political parties and sections of the media." In stating this, Mayawati gave up the one slogan – "*Tilak, tarazu aur talwar/linko maro joote chaar*" (thrash the Brahmin, the Bania and the Rajput with shoes) - that helped the BSP to aggressively pursue its pro-Dalit agenda during the 1980s and 1990s. The BSP chief's contention was that none of her party leaders had ever raised the slogan. She added that the BSP was only opposed to certain discriminatory tendencies and attitudes prevalent in Hindu society, such as caste oppression, and not to the upper castes as such. BSP earlier slogan was Brahmin Shankh Bjayega, Haathi aage Badta jayega. Now the slogan is Haathi nahi Ganesh hai, Brahma Vishnu Mahesh sab ek hai. BSP, like all other big parties in the State, has realised

that it has reached a saturation point of support within its core caste support base in the Dalit Chamar community. Its leadership knows that it has to win over other communities if it has to enhance its strength and influence in the State's polity, and hence the new love for Brahmins.

All the parties devised ways and means to add a new community to their core caste-based vote banks. The outcomes of the last few elections in the State have underscored this trend. The BSP's Brahmin initiative clearly belongs to this genre.

It can't simply disappear from the society. In the process of change, caste has been drawn out of its 'apolitical' context and given a new status- a new 'Avtar' - a politicized status. After independence caste has been 'Deritualised'. It has been delinked from various rituals and rules of endogamy, occupation and status. It is no longer a unit of the rituals- status hierarchy. Though caste still serves as a kinship based cultural community, its ritualistic support structures have collapsed and it operates in a new system of social stratification. The socio-economic and political forces of change have disintegrated its traditional status and in the process overwhelmed it with a power system created by elections, political parties and above all by social policies such as affirmation action.

Politicization of Caste

The process of interactions between caste and politics has been essentially selective. The 'Power Structure' of the caste system was the first to be drawn into modernization- stream. Distribution of economic benefits was the second followed by the third factor 'consciousness of caste'.

The leadership of the 'Entrenched Castes' was the first to enjoy access to power and benefits. These were people of higher caste, educated and united more by a common social bond than the consciousness of caste- or organizational and political mobilization. Whenever this took place mainly on the basis of the higher caste, it soon gave rise to a feeling of deprivation and antagonism among other higher castes. The domination of an entrenched caste thus produced a new response in the

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form of an 'Ascendant Caste'. The process gradually gave rise not only to inter caste but even intra caste conflicts for resource, power and benefits.

Politicization of caste takes place when the elite of different segments of the society articulate the interests of their groups by forming associations and developing a vertical network of factions among the various elite and the other groups.

According to Lyod and Suzanne Rudolph the relationship between caste and politics can best be understood in terms of three types of mobilizations that have taken place in India:

- a) Vertical mobilization occurs when the traditional notables marshal support in local societies which were organized by rank, mutual dependence of traditional authority.
- b) Differential mobilization occur when direct or indirect political support is marshalled by political parties themselves rather than by the local notables or community associations. Such a mode of mobilization was increasing if used when as a result of agrarian reforms, the relations between the dominant and dependent castes were unsettled and inter and intra caste conflicts intensified.
- c) Horizontal mobilization involves the marshalling of popular political support by class or community leaders in their specialized organizations. By 1960s this mode of governing support had gained prominence when people situated at comparable levels within the local hierarchies came together in caste associations. Republican party, BSP, Lok Dal were the result of this kind of mobilization.

Presently, as a result of the increase in electoral politics, the vote banks that earlier functioned on the bases of vertical obligation have become rare, voters through factions and short-term alliance prefer to follow their own interests.

Politics of Reservation

Not only is caste institutionalized in politics through the system of reservations, which guarantee seats in government, access to educational institutions and employment in the administrative (which is a way how to get into position of political power) for selected – large – segments of society, but caste-based organizations are also emerging within the framework of the civil society. By 1970s reservation politics resulted in the emergence of a class of elite among the lower castes that had acquired modern education, entered the bureaucracy and other non traditional occupations. These emerging groups began to challenge the hegemony of the upper castes in national politics. The process of politicization of castes reached a climax in 1980 with the extension of reservation to the other backward classes by the Mandal Commission. This created a confrontation between the traditionally higher and intermediate castes on the one hand and the lower castes on the other. But it led to the resurgence of lower castes in national politics. The politics of reservation gave a new impetus to the politicization of castes. Since, 1970's and 80's these lower castes have moved away from the Congress and formed their own alliances and national political parties have to now negotiate directly with these groups.

Rise of Dalit Consciousness

The overall impact of decades of competitive electoral politics has rendered all inherited relations of power contestable. As 'David Washbrook' observes that the merest sight or smell of privilege in any area of society instantly provokes antipathetic response among those who see or smell it. No privilege is inherently legitimate and no authority exists uncontested. The rise of Dalit movement in this context is particularly notable feature of the Indian politics since 1980's. It is not limited to Scheduled Castes only but symbolizes a much broader segment of the oppressed, excluded and underprivileged segments of the society. This upsurge has taken place on the one hand due to the retraditionalization of society, emergence of older cultural values and identities, as well as increasing regional and class inequalities

arising out of the failure of the state to fulfil its promises of distributive justice to the poor and underprivileged. This upsurge has taken the form of parties like BSP in UP, Dalit Panthers in Maharashtra and Tamil Nadu and assertion of the OBC's in the north against the upper and middle castes. As a protest movement, the Dalits seek social justice and dignity and attempt to build electoral majorities. Their icons are people like Ambedkar, Phule, Periyar and a whole variety of regional heroes and saints who have till now been marginalised by mainstream Hinduism.

'Rajni Kothari' says that the consciousness of caste is no longer the preserve of the Brahmanical upper castes. The very sufferers of the system are today invoking its claims not as a matter of state policy but as a matter of right.

4.2.5 CRITICISM

Back in 1950s, B. R. Ambedkar had criticized the use of caste as a political plank. He anticipated the limitations of using caste as a political resource and instead, emphasized on eliminating the concept of caste from the society. He pioneered the dalit Buddhist movement in India and asked his followers to leave Hinduism and convert to Buddhism. Jyoti Rao Phule and Iyothee Thass argued that the lower caste people were the original inhabitants of India.

Various activist consider caste system is a form of racial discrimination. India's treatment of dalits has been described by UNESCO as "India's hidden apartheid". However, such allegations of apartheid are regarded by academic sociologists as a political epithet since apartheid implies state sponsored discrimination and no such thing exists in India. India's constitution places special emphasis on outlawing caste discrimination especially the practice of untouchability. In addition, the Indian Penal Code, inflicts severe punishment on those who discriminate on the basis of caste.

The Indian caste system is relaxing somewhat, especially in metropolitan and other major urban areas, due to the penetration of higher education, co-existence of all communities and lesser knowledge about caste system due to alienation with rural roots of people. Breakdown of closed village economy, universal adult franchise

and democratic decentralisation dismantled the caste system to some extent. In rural areas and small towns, the caste system is still very rigid. The total elimination of caste system seems distant, if ever possible, due to caste politics.

4.2.6 SUMMING UP

Caste is a homogeneous endogamous, social control organization with distinctive rituals especially those pertaining to religious purity. There is definite linking between caste and politics. However, it does not mean that Indian politics is about caste and nothing else. It is wrong to believe that caste is the only consideration in the minds of voters. The latest elections show that governance became an important consideration. Caste has played an important role in Indian politics. Even the British understood potentiality of the use of caste card. It is true that caste has increased the democratization of Indian politics; however, by any measure caste should be treated as relic of the past. Modernization and democracy demands the end of such institutions. Indian constitution also aspires for building a casteless and classless society.

M.A. Political Science, Semester I

Course Title : Indian Political System

Unit – IV : Politics of Representation and Recognition

4.3 RELIGION: CHANGING NATURE, ROLE AND EMERGING DEBATES IN INDIAN POLITICS

- Pankaj Kumar Sharma

STRUCTURE

4.3.0 Objectives

4.3.1 Introduction

4.3.2 Changing Nature of Religion in Indian Politics

4.3.2.1 Role of Communalism in Indian Politics

4.3.2.2 Religious Politics for Mobilization

4.3.2.3 Politics of Uniform Civil Code

4.3.3 Role of Religion in Indian Politics

4.3.4 Lets Sum Up

4.3.0 OBJECTIVES

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

- Understand the concept of religion;
- explain the role played by religion in Indian politics;

- analyse the changing nature of religious politics.

4.3.1 INTRODUCTION

Today religion in politics has assumed heightened significance in Indian context as well as in the global context. After the end of cold war, world has witnessed the rise of religious fundamentalism. Academic world has produced theories like clash of civilizations to determine the possible role of religion in the politics of coming years. The post colonial Indian state did not adopt the stance of completely expelling religion from public affairs and making it a private matter of the individual citizens. India did not acquire a state religion but was equally disposed towards all religions.

Religion constitutes the core of Indian society and continues to influence mass psyche. Religious organizations interact with political groups to gain authority over section of population. Similarly, the support of religious groups is taken as an important source of strength for political parties. 1990s also witnessed the rising impact of religion on the national politics in India and even continue to influence politics in contemporary times.

4.3.2 CHANGING NATURE OF RELIGION IN INDIAN POLITICS

In the Indian way of life, religion plays an important role and the basis of our day-to-day life is religion. Political leader's right from the beginning felt that if there is any possibility of retaining unity in India, it should be by remaining secular. That is why Gandhiji had been preaching brotherhood among the different religious groups. Nehru was a strong supporter of secularism. Their efforts could not divorce religion from politics rather in politics the vested interests started exploiting caste and religion for gaining political advantage.

With the passage of time India was divided into Pakistan and Bharat only because two nations theory was accepted by the Britishers. Even after Independence, the religious fervour could not be finished because the trail of the memories of the partition haunted the minds of the people. Still India managed to keep the communal

forces under check. But the opposition parties exploit religion and theocratic States established in Pakistan and Iran encouraged fundamentalism all over the world. Recently in Punjab religion and politics are so closely interwoven that it has become difficult to separate them.

Religion in pre-colonial, pre-modern society was naturally different from religion in the modern era, when separation between the spiritual and secular, between politics and religion, was promoted. Under the rule of pre-modern divine kingship, religion must have permeated the entirety of people's daily lives. In the modern period brought by colonial rule, by contrast, the diffusion of dualism that divided people's way of living into spiritual and secular made it possible to separate religion from worldly affairs and to see it at a certain distance. Religion, in other words, became an object of conscious manipulation and choice. Here paradoxes occurred. At the time when the system dividing the Indian population into Hindus and Muslims – a system that made religion look as if it were the most important element of people's identity – became established, a secularisation of religion, that is, religion no longer coinciding with the entire identity of the people, was also in progress. Secularisation, needless to say, reduces religion to just a part of life. People are thus placed in a double bind religiously. They are suspended between the basic proposition of secularism – that religion should withdraw from government (a state that does not intervene in matters of religion) – and the proposition that religion is employed as the criterion for division into social groups (a state that intervenes in religion). In a secular state, a solution to this double-bind situation is generally to divide the life of a person into private life and public life, and to allot religion to private life. Thus, British colonial rule in India brought into being a secular state system which used religion institutionally for its own ends and in which it was difficult to maintain a balanced administration.

Religious places are used for political propaganda and the religious sentiments of the people are excited in order to gain political control of the State. This emergence of religion based political parties has threatened the secular character of India. It

is feared that if it succeeds there is a possibility that many other political parties with caste and religion as the basis may come up.

Mixing of religion with politics is a dangerous trend because religious attitude is diametrically opposed to democratic feelings. Religion encourages fanaticism and suspends our reasoning power and we repose full faith in leaders. We are prepared to make sacrifice because sacrifice will be considered martyrdom. This mental attitude is directly opposed to democratic spirit. Democracy demands open mindedness, universal brotherhood and thinking based upon reason and capable of taking its own decision. In such cases, there is no herd tendency and the person is liberal in outlook. If religious forces are allowed to become powerful there will be disintegration of the nation and sovereignty of the State will be in danger. There are a large number of religions, castes and sub-castes in India, and unfortunately some of them are opposed to one another as far as their practices are concerned. Under such circumstances, there is no possibility of keeping them together if once there is fragmentation.

Religion is a private affair and if it is allowed to appear in public affairs it will corrupt politics. All the crimes committed in the name of religion in the past as well as in the present one cannot forget. So religion makes a man blind and it will never encourage opposition.

So if we want to consolidate democracy give firm foundations to it and make its working successful, it is necessary that the people should keep religion apart from politics. It is wrong to think that with the help of laws, it is possible to divorce religion from politics. Till the attitude of the people is changed, and till they rise above the petty considerations it is not possible to keep religion and politics apart. By keeping them independent of each other, we can retain democratic set-up.

4.3.2.1 Role of Communalism in Indian Politics

The most ominous aspect of the political crisis in India today is that pernicious communal ideologies and organizations are allowed to grow freely, spreading hatred

and inflaming passions in the name of religion as never before. Unable to control or contain these ugly developments, the ruling party has chosen to use this communal mobilisation to suit its own electoral strategy of appeasing one community now and then the other the opposition parties, weak and divided as they are, make some noise only when their own political calculations are upset. Otherwise they are content with copying the strategies of ruling party.

The post colonial Indian state did not adopt the stance of completely expelling religion from public affairs and making it a private matter of the individual citizens. India did not acquire a state religion but was equally disposed towards all religions. This gave an opportunity to leaders, particularly in the government to identify themselves with the people on the basis of their religious sentiments both in negative and positive terms - and ask votes from them. To cite, the Congress (I) sought to assure the Muslims of the security of their religious identity if they moved under its banner. On the other hand, even in the Nehruvian era, coconuts were broken before ships were launched, yajna's performed before laying the foundation stone of the temples of modern India, almanacs consulted, Sanskrit hymns sung and holy tilaks applied on the foreheads of political leaders in public functions.

In India, Hinduism, Islam, Sikhism, Christianity, and Zoroastrianism are some of the major religions practised by the people. Numerically the Hindus are considered to be the majority, which inspires many Hindu loyalist groups like the RSS (Rashtriya Swayam Sevak Sangh) or the Siva Sena and political parties like the BJP (Bharatiya Janata Party) or the Hindu Mahasabha to claim that India is a Hindu State. These claims generate homogenising myths about India and its history. These claims are countered by other religious groups who foresee the possibility of losing autonomy of practise of their religious and cultural life under such homogenising claims. This initiates contestations that have often resulted in communal riots. The generally accepted myths that process the identity divide on religious lines centre on the 'appeasement theory', 'forcible religious conversions', general 'anti-Hindu' and thus 'anti-India' attitude of the minority religious groups, the 'hegemonic aspirations'

of majority groups and ‘denial of a socio-cultural space’ to minority groups.

The division which has become institutionalised in the form of a communal ideology has become a major challenge for India’s secular social fabric and democratic polity. Though communalism for a major part of the last century signified Hindu-Muslim conflict, in recent years contestations between Hindus and Sikhs, Hindus and Christians have often crystallised into communal conflict. The rise of Hindu national assertiveness, politics of representational government, persistence of communal perceptions, and competition for the socio-economic resources are considered some of the reasons for the generation of communal ideologies and their transformation into major riots. The rise of majoritarian assertiveness is considered to have become institutionalised after the BJP that along with its ‘Hindu’ constituents gave political cohesiveness to a consolidating Hindu consciousness, formed a coalition ministry in March 1998.

4.3.2.2 Religious Politics for Mobilization

Religious politics indicate a situation where religion becomes **the basis of mobilization and the bases for determining the purpose** of politics. Religious politics by nature is politics of exclusion. Religious politics is always for its followers. The religious politics is commonly known as politics of community e.g. politics of Hinduism or politics of Islam or Sikhism; hence it is known as communalism. The politics of communalism is treated as the threat to politics of nationalism (it is integrative politics).

In 1960s, communalism started becoming active as communal ideologies existed. Communal organizations like RSS, Jamat-e-Islami, Muslim League, Jansangh, Akali Dal continued to function. Even in 1950s itself, India has witnessed the series of communal riots. From 1980s onward, communal riots increased in intensity and severity. **Ashish Nandy** writes that initially the hub of communal politics was industrial town, but gradually communalism also reached to rural areas. Thus

communalism came to acquire the centre stage of Indian politics. The rise of BJP from 2 seats in 1984 with 7.4 % of votes to 85 seats in 1989 (11.4% of votes) to 119 seats in 1991 (21% of votes) explain the rise of influence of religion in Indian politics.

Another significant aspect of communal politics show that communal violence not only became widespread but the intensity of communalism has increased. According to **SD Muni**, the rise of Hindu fundamentalism and its nationalism of Hindutava has been major factor in the deterioration of the communal situation in India. The 'Ram Janmabhumi-Babri Masjid conflict' in Aayodhya and Gujarat riots are concrete examples of it.

Asgar Ali Engineer gives economic interpretation to communal politics and says the impact of green revolution was responsible for the growth of communal politics in Punjab.

According to **Partha Chaterjee**, there is a problem in Indian concept of secularism because it creates opportunity for states intervention into religious matters and thus possibility of the political use of religion.

Bipan Chandra has given six reason, the development process has touched only the small section; Indian society is in the transitional phase. Old institutions like caste, joint family and villages have seen breakdown. New institutions of solidarity like trade unions are showing tardy process. In such institutions communal organizations provide the bases of social solidarity. Communalists and communal ideology has made serious in roads in state apparatus; political idolism generated by national movement has reached to the stage of exhaustion.

Hindu Communalism: Hindu communalism has its roots in pre-independence phase. The two prominent Hindu outfits, Hindu Mahasabha and RSS, raised the slogan of "Akhand Hindustan" against the demand of Pakistan. After independence, Hindu Mahasabha gave way to Jan Sangh which gave way to BJP. Initially Hindu

communalism was defensive. Gradually, it became aggressive and assertive. The VHP provided support to Hindu communalism. The climax of Hindu aggressiveness was seen in the demolition of Babri Mosque on Dec 6, 1992.

According to **Bipan Chandra**, every form of communalism is bad, minority communalism results into separatism and majority communalism results into fascism. Communalism is perhaps the most serious challenge facing Indian society. It challenges the identity of India as secular state as well as capacity of Indian state to secure democracy and equality and justice in a multicultural society. Indian people are basically secular. Even in areas where communal riots have occurred, there does not exist a permanent divide between Hindus and Muslims. In no part of the country, we see a situation where aggressive majority is standing against weak minority.

The Congress has banked upon the support of Brahmins, the Muslims and the Scheduled Castes and Scheduled Tribes on an all India scale though there have inevitably been regional variations. The BJP has constructed upper caste Hindu fears of both the lower castes and the Muslims, and mobilised tradition, history, state of the art technology and the ideology of nationalism in its search for power in a modern political system - parliamentary democracy.

The Muslim League in its new incarnation in independent India played the old game of magnifying the insecurities of the Muslim community in India, though its support base is region specific. The Janta Dal, the Bahujan Samaj Party, the Samajwadi party are based on the community and caste identities. The leftist parties are also putting up people born of Muslim parents and bearing Muslim names as candidates at the time of elections in predominantly Muslim constituencies.

The political parties are exploiting the emotional sentiments of the people. It is, in this context, **Ashish Nandy** is right when he says, “predictably riots organised in the name of religion have become some of the most secular events in Indian society.

For him, they organised the way a political rally or a strike is organised in our system which usually to bring down a regime or discredit a Chief Minister here or to help an election campaign or a fact there. Some political parties of India today, have professionals who specialise in riots and like true professionals, do an expert job to it”.

The interference of religion and caste in politics has led towards **communal violence**. Temples, Mosques, Gurudwaras etc are being used not only for political motivation but also to stockpile arms and lethal weapons. The electoral politics such as **nomination of candidates, campaigning, communal representation** etc. has encouraged the process of communalism in almost all the states and the use of religion in politics.

Even today, bureaucracy and police forces are also under the impact of communalism. There are some examples such as in Mumbai, the reluctance of the police to deter frenzied mobs killing Muslims in January 1993, and from looting and burning their property led to the barbaric bomb blasts of March 1993. The killing of innocent Sikhs in Delhi and other parts of India after Mrs. Indira Gandhi’s assassination was yet another example of police ineptitude.

While examining the nature of communal riots in India, **Mohd. Aslam** said, “Communal riots these days have become more pre-planned. While earlier they were mostly confined to the streets and the loss of property was usually incidental, now the target of communal riots seems to be specific properties and places marked out before hand, which clearly suggests that the riots have become goal oriented..... Even earlier, the complicity of the police and the administration in communal riots had been established, but the implication in controlling of a riot, that is, harsh on the minority community and lenient with the majority community. Today the police is very often seen to be a direct participant in such riots.” It further appears that political elite in the country failed to give positive direction to certain processes of secular nature.

The role of state, in such a multi-ethnic society like India, must be or at least appear to be, non-partisan. In fact, minorities must often be accorded special safeguards and protection. Theoretically, the constitution of India does this in ample measure, and the state in India by no means can be classified as communal even by an impartial observer. But the picture is rapidly changing. The minorities are losing faith in the secular credentials of the state and are beginning to perceive the state as a representative of a particular community. This is increasingly pushing them into the sanctuary of their own religious community.

4.3.2.3 Politics of Uniform Civil Code

India has personal laws, for Hindus, Muslims and Christians, dealing with civil matters, such as marriage, divorce, and succession — though subjection to these laws is optional in certain matters, as there are also special civil laws meant for the people of all communities. However, Article 44 in Part IV of the Indian Constitution, which is not binding, says that India should endeavour to adopt a uniform civil code throughout the country. The objective of adopting a uniform code is national integration, according to the Supreme Court of India.

Many rights groups are in favor of a uniform code, as they believe Muslim personal laws in particular are oppressive for women. The BJP too advocates for it, but with a different objective. It is believed that the party is for a common code because it can make life difficult especially for conservative Muslims and the clergy. However, the Congress and other secular parties are of the opinion that adoption of a uniform code must be preceded by a national consensus, especially among the Muslim community.

There is a fear among minority communities, mainly Muslims, that a common code will be misused to impose Hindu ethos on the minorities in the name of uniformity.

4.3.3 ROLE OF RELIGION IN INDIAN POLITICS

The recent elections show that the politics of religion is not so appealing to Indian voters today as it used to be. Indian voters are more concerned with the governance

and development issues. Yogendra Yadav points this tendency as “exhaustion of exclusivist politics”. However, religion still plays a predominant role and have great role in the Indian politics.

4.3.3.1 Existence of Religion based Political Parties

The religious freedom has led to the organization of several religious political parties. The religion-based registered and recognised (by the Election Commission of India) parties are the Muslim League in Kerala state, the All India Majlis-e-Ittehadul Muslimeen in Andhra Pradesh states, the Shiromani Akali Dal (SAD, a Sikh party) and its breakaway SAD-S (led by Simranjit Singh Mann) in Punjab state. However, barring the SAD, which is a ruling party in Punjab state, the other religion-based parties have a negligible number of representatives in the parliament or state assemblies

4.3.3.2 Religion and Electoral Politics

Religion plays a crucial role in Indian elections. It operates in all spheres of electoral politics from the selection of candidate for contesting elections, allocation of constituency to parties of electoral alliance, election campaigns, formation of ministers to the process of policy making.

The Ram Bhumi vs Babri Masjid was the burning issue in 1989, 1991 onward election both at the union and state levels. The BJP, which was struggling to become a national party and an alternative to India’s one and only major party at the time, the Congress, adopted a resolution in June 1989 to build a temple of Rama in Ayodhya (Uttar Pradesh state), which the party claimed as the Ram Janmabhoomi (the birthplace of god Rama). The BJP and Hindu nationalists allege that Muslim ruler Babur had demolished a temple of Rama to build the Babri Mosque in Ayodhya in the 16th century. In September 1990, BJP leader Lal Krishna Advani undertook a Rath Yatra (procession on a chariot) to promise the construction of a temple of Rama. The Ayodhya issue began reaping political dividends. In July 1992, Advani,

the leader of the opposition in the Lok Sabha (House of the People), reportedly told the House, “You must recognise the fact that from two seats in parliament in 1985, we have come to 117 seats in 1991. This has happened primarily because we took up this issue (Ayodhya).”

Political opportunism of secular parties permits intrusion of religion into politics; e.g. communist parties allied with Muslim League in Kerala and with Akali Dal in Punjab in 1960s. In 1977, Jan Sangh was accommodated in Janata party. In 1989, VP Singh formed indirect alliance with BJP and indirectly supported by the communists. Rajiv Gandhi reversing the judgment in Shah Bano case and opening the gate of Ramjanambhumi.; soft approach towards communalism by state has legitimized such groups and acrimonies.

4.3.3.2 Politics of Appeasement of Religious Minorities

The political parties in India try to develop their votebank among the religious minority groups. They always support and encourage the forces of religious fundamentalist which are present in all religious communities, more particularly among religious minority groups. The majority religious groups feel greatly disturbed by the policy of appeasement of the religious minority and as a reaction tends to support a party that commits itself to majority religious group. The rise of BJP from 2 seats to 181 in 1999 is due to this factor.

4.3.3.3 Religion as a Determinant in Voting Behaviour

During the elections, religion strongly influence the voting patterns in the regions where both Hindu and Muslim communities coexists to large extent and to little extent in other regions as well. Religion acts as an important determinant in the people’s choice to elect candidate in the elections. In particular, the voting behaviour of the voters belonging to minorities is always governed by this factor.

The Christian and Muslim communities support the Congress while sections of the Hindus vote for the BJP – a considerable number of Hindus believe in secularism. The BJP raises Hindutva-related issues not merely because it is a ‘fundamentalist’ party, but also to make an appeal to Hindus to vote along religious lines.

Pressure groups and religious interests: Religious interests groups play a key role in Indian politics. Arya samaj, sikh intellectual forum, Brahman sabha, hindu suraksha samiti, RSS, Jamat-e-Islami etc all acts as pressure groups in Indian political system.

Hindu nationalism upheld one religion, one culture and one nation. Being numerically small, the upper castes needed mass support or lower-caste support to come to power in the “one man, one vote” system. In order to regain political supremacy, they played the religious card to mobilize the masses. On the one hand, they tried to homogenize the differences within Hinduism, and on the other, they declared war against Muslims and Christians. The latter were defined as the “other,” enemy, outsiders, unpatriotic and were to be eliminated in order to realize the golden age of Hinduism in India. Besides the R.S.S., multiple other organizations came into being, such as the Vishwa Hindu Parishad (V.H.P.), the Bajrang Dal (B.D.), the Hindu Jagran Manch (H.J.M.) and others, under the umbrella of the Sangh Parivar with the Bharatiya Janata Party (B.J.P.) as its political organ. They all proclaimed that Hinduism was in danger. Accordingly, the birthplace of Ram in the city of Ayodhya in the northeast state of Uttar Pradesh had to be liberated from the Muslims, who had built a mosque over it hundreds of years ago.

Hindu nationalists believe in and promote Hindutva even today. They do not necessarily object to the fact that India is a secular state as per its Constitution, which was written in 1949, but they offer a different definition of secularism. (The word ‘secular’ was woven into the Preamble to the Constitution in 1976, although it had secular provisions prior to the amendment.)

Religious fundamentalism and violence: religious violence in the form of communal clashes and the active presence of so called religious terrorist outfits has been acting as a source of pressure tactics on the Indian polity.

As part of its ‘communal’ agenda, the BJP allegedly organises and incites communal violence, and raises divisive issues, such as ‘Islamic terrorism’, uniform civil code, and Christian conversions.

At least 200 incidents of anti-Christian attacks, including four murders, had been recorded before an unprecedented spate of violence erupted in Orissa state’s Kandhamal district during the Christmas week in 2007. The Orissa violence killed at least four Christians and burnt 730 houses and 95 churches. In 2007, the number of attacks on Christians crossed 1,000 for the first time since India’s Independence in 1947.

However, the BJP and other Hindu nationalist groups stereotype common Muslims into ‘supporters’ of terrorism.

Government formation and representation: in the organization of government both at the union and state levels, the political parties always keep in mind the religious composition as well along with castes. Thus ministers belonging to different religious communities are accommodated in the ministries. Therefore, religion influences the process of government formation.

4.3.4 LETS SUM UP

Intersection of religion and politics in itself should not be a matter of concern. After all, Mahatma Gandhi, known as the Father of the Nation, led India to win independence from the British rule through a struggle that was founded on religious beliefs. Gandhi said his mission was to win ‘Swaraj’ (self-rule), a just and humane government and society, which, according to him, was realising God on earth. Winning independence politically was only a small part of it. Religion, he said, in its broadest sense governs all departments of life, including politics.

Unfortunately, it is the misuse of religion that we see in politics today, and not the use of virtues found in it. What is more unfortunate is that almost all political parties are, in one way or the other, guilty of using religion-related issues for narrow political gains, and even the hands of religious leaders are not clean. This is perhaps because religion is a source of identity and a bonding factor in the lives of people, mainly in developing societies like India. And politics in a democracy that is still maturing is inevitably coercive and amoral.

M.A. Political Science, Semester I

Course Title : **Indian Political System**

Unit – IV : **Politics of Representation and Recognition**

**4.4 GENDER: EMERGING ISSUES AND DEBATES
IN INDIAN POLITICS**

-Mamta Sharma

STRUCTURE

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4.4.0 Objectives

After going through this lesson you will be able to:

- _ Understand the concept of gender and the construction of gender based differences on the Indian Society
- Understand the gender based issues confronted in the Indian system and its impact on the position of women in the Indian Society

4.4.1 INTRODUCTION

The communities of today are facing lots of challenges. The ancient social relations, emotional bonds and sentimental ties are no more significant and visible. The community consciousness is rapidly lowering down. Dirty politics has entered into the peaceful life of the community people and they are divided into different political groups and sub-groups. The joint family system is fast disintegrating and strains on human mind are increasing. Communal disharmony, gender inequality, factionalism, protection of rights of marginalized groups, feelings of deprivations among different classes like cultivators, industrial workers, daily wage earners, alteration of property relations in favour of the less privileged and impact of macro policies at micro levels are some current issues which require immediate intervention while working with communities, institutions and organisations.

The status of women in India has been subject to many great changes over the past few millennia. From equal status with men in ancient times through the low points of the medieval period, to the promotion of equal rights by many reformers,

the history of women in India has been eventful. In modern India, women have held high offices including that of the President, Prime Minister, Speaker of the Lok Sabha and Leader of the Opposition. However, women in India continue to face atrocities such as rape, acid throwing, dowry killings, and the forced prostitution of young girls.

The condition of women in India has always been a matter of grave concern. Since the past several centuries, the women of India were never given equal status and opportunities as compared to that of their male counterparts. The patriarchal nature of Indian society, which even though gives respect to women as they are our mothers and sisters, has greatly hampered both the independence as well as the safety of women. Women in India continue to face violence from womb to the tomb. While in womb they face the ever-looming threat of feticide and after birth, they are subject to various forms of violence and harassment at different points of their lives, at the hands of different actors, ranging from their parents to their husbands to the members of general public to their employers.

This state of affairs exists even when the Constitution of India guarantees to all Indian women equality (Article 14), no discrimination by the State (Article 15(1)), equality of opportunity (Article 16), and equal pay for equal work (Article 39(d)). In addition, it allows special provisions to be made by the State in favor of women and children (Article 15(3)), renounces practices derogatory to the dignity of women (Article 51(A) (e)), and also allows for provisions to be made by the State for securing just and humane conditions of work and for maternity relief (Article 42).

Despite all these constitutional and legal measures there is lot of atrocities and injustices prevailing in India. It is an irony that, a country where religious and cultural traditions keep women in high esteem, and women are worshiped in the form of many deities, atrocities against them are on the rise. Let us now understand the meaning of gender, difference between gender and sex, gender system and its elements and impact of gender system on women inequalities.

4.4.2 Gender Sensitive Community Organisation Practice

According to the Oxford dictionary, gender has been defined as sexual classification i.e. male and female. But gender is not a biological attribute. It is created by the society. There is need of equality between 'Men' and 'Women'. Unfortunately, our present system is involved in developing its own set of rules, which is basically responsible for discrimination and injustice of women and girl child in our society.

Difference Between Gender and Sex

Gender	Sex
Socially defined	Biologically defined
Socio-cultural difference	Natural difference
Made by the society	Naturally made
Variable	Constant

Gender gives different values to Men and Women. The biological sex differences are accepted as correct indicator for differential male-female access and their participation in the society.

4.4.2.1 Gender System

Our society is organised around some given parameters and aims, the functionality of which is ensured by a set of systems and institutions. For instance, marriage and family life are ingrained aspects of the Indian society. Girls and boys get married and start their own families living within the prescribed norms that determine choice of marriage partner, their roles, code of conduct (fidelity, chastity, girl's subservience to her husband and in-laws), life-style and practices (such as purda, male inheritance, dowry etc.). One of the most pervasive and widespread codes of organisation that affects all aspects of social functioning is the gender system. It is patriarchy that provides the life force to the unfavourable conditions that woman face. Let us try and list out some of the more common features of gender system.

4.4.2.2 Male-Female Differentiation

The practices of male-female differentiation form the core of a gender-based system. Biological sex differences, which are real, are extended to be the criteria for social placement. Allocation of Roles In any organisation or society roles are attributed for specific function. In a patriarchy, roles are allocated not only in accordance with the biological functions (procreation), but are misappropriated according to values prescribed to male and females. Within patriarchy ‘dominating and controlling social functions are prescribed for males whereas ‘supportive functions are the purview of the females. Thus, by birth, the males are ‘inheritors of resources’, performing the functions of earners and by birth the females are ‘family caretakers’ performing the functions of ‘child nurturing and running the households’.

4.4.2.3 Gender-based Hierarchical Placement

Alongwith role allocation certain norms and values, as well as practices and beliefs, further promote the ‘male-female superior-inferior or hierarchy’, whereby males have access to land holdings inheritance, skills, productive employment and the associated high status. Women, on the other hand, are denied even life (female infanticide / foeticide), receive poor nutrition and medical care, inferior education and suffer atrocities such as eve-teasing, rape, wife beating etc.

4.4.3 Elements/ Issues of the Gender System

Feminist activism in India gained momentum in the late 1970s. One of the first national-level issues that brought women’s groups together was the Mathura rape case. The acquittal of policemen accused of raping a young girl in a police station led to country-wide protests in 1979-1980. The protests, widely covered by the national media, forced the Government to amend the Evidence Act, the Criminal Procedure Code, and the Indian Penal Code; and created a new offence, custodial rape. Female activists also united over issues such as female infanticide, gender bias, women’s health, women’s safety, and women’s literacy.

In 1990s, grants from foreign donor agencies enabled the formation of new women-oriented NGOs. Self-help groups and NGOs such as Self Employed Women's Association (SEWA) have played a major role in the advancement of women's rights in India. Many women have emerged as leaders of local movements; for example, Medha Patkar of the Narmada Bachao Andolan. The Government of India declared 2001 as the Year of Women's Empowerment (Swashakti). The National Policy for the Empowerment of Women was launched in 2001. Under this policy various policies and programmes were launched for the empowerment of women. Of late under this policy, the ongoing policies for women empowerment were merged for better coordination.

Despite all these, there is an unspoken truth that women in India are subjected to lot of hardships. Perhaps, the biggest crime against humanity is perpetrated against women, threatening their safety and security. Let's now discuss some major gender issues.

4.4.3.1 Role of Stereotyping

The female biological functions of reproduction are extended to rearing of children and catering to household work. On the other hand, the role of the male is to earn for the family. Accordingly, both sexes are socialized to these predetermined but separate roles. Even in society where both men and women are called upon to earn, the primary roles associated with social values have remained unchanged. Thus, even if women earn an income, their responsibility towards household chores remains undiminished.

4.4.3.2 Child Preference on the Basis of Sex

The corresponding social status availed by the male due to his being the inheritor, the protector of the family and its interest, the "doer", a male child is valued. Moreover, it is the sons who are an old age insurance for the parents, since the daughters get married and leave the family. Besides, daughter implies expenses such as dowry. Thus, a male child is preferred by society. In fact, male child preference

is so strong that in certain areas a wife who does not produce a male child is called 'Kulachhani', destroyer of the family since name will not be carried forward.

4.4.3.3 Domestic Violence

Domestic violence, or intimate partner violence (IPV) as it is sometimes called, is a worldwide problem. Cultural and household stress factors contribute to the prevalence of domestic violence, and it has been argued that these factors need to be thoroughly addressed through such channels as the institutionalization of routine screening for warning signs of domestic violence by health professionals, legislation (along with feasible mechanisms for enforcement), and support and empowerment stemming from women's groups. Domestic violence in India is endemic. Around 70% of women in India are victims of domestic violence, according to a former Union minister for Women and Child Development. This all occurs despite the fact that women in India are legally protected from domestic abuse under the Protection of Women from Domestic Violence Act. There may be different types of domestic violence; some of them are discussed below.

Forms of Domestic Violence:

(a) Physical injury: It is the most visible form of domestic violence. The scope of physical domestic/intimate partner violence includes slapping, pushing, kicking, biting, hitting, throwing objects, strangling, beating, threatening with any form of weapon, or using a weapon. Physical injuries as a result of domestic violence against women are more obvious than psychological ones, and can be more easily discerned by health professionals as well as courts of law in the context of legal prosecution

. (b) Emotional abuse: It has been gaining more and more recognition in recent years as an incredibly common form of domestic violence (and therefore a human rights abuse) within the private home throughout developing nations such as India. Psychological abuse can erode a woman's sense of selfworth and can be incredibly harmful to overall mental and physical wellbeing. Emotional/psychological abuse can

include harassment; threats; verbal abuse such as name-calling, degradation and blaming; stalking; and isolation.

(c) Sexual assault: It is another common form of domestic violence. Sexual violence can include a range of forceful and non-forceful acts including unwanted kissing, touching, or fondling; sexual/reproductive coercion; rape; and marital rape. Abuse is found to be most common among men who also had extramarital affairs, and among those who had STD symptoms. Abusive sexual behaviors were also found to be correlated with an elevated rate of unplanned pregnancies. In 2013, a court in Mumbai ruled that depriving a woman of sex is a form of cruelty.

4.4.3.4 Dowry Demand and Dowry Death

In Indian subcontinent, dowry is the payment in cash or some kind of gifts given to a bridegroom's family along with the bride. The dowry system is thought to put great financial burden on the bride's family. Historical records suggest that dowry in ancient India was insignificant, and daughters had inheritance rights, which by custom were exercised at the time of her marriage. However, dowry has become a prevalent practice in India's modern era. There are variations on dowry prevalence based on geography and class. States in the north are more likely to participate in the dowry system among all classes, and dowry is more likely to be in the form of material and movable goods. In the south, the bride price system is more prevalent, and is more often in the form of land, or other inheritance goods. This system is tied to the social structure of marriage, which keeps marriage inside or close to family relations. Dowry also varies by economic strata in India. Upper-class families are more likely to engage in the dowry system than the lower class. This could be in part due to women's economic exclusion from the labor market in upper classes. Dowry has become a social menace in modern India, because due to its practice women are subjected to many types of atrocity and harassment, the most brutal and inhumane of which is 'dowry death.' Dowry demand and its inadequate satisfaction is one of the most prominent reasons for domestic violence.

4.4.3.5 Sexual Violence against women in India

Urban public space includes all the areas in between built structures and other spaces the public is attracted to. In addition to streets, roads, public toilets, bus stops, railway stations, modes of transport, promenades and parks and playgrounds, the new “hang-out” spaces of Indian metropolitan cities, like shopping malls, coffee shops, movie theatres and restaurants, are also included. The term safety includes not just the actual physical and psychological impacts of an act of aggression or violence but also the fear or anxiety associated with the anticipation of violence in an urban public space. In the light of increasing sexual assault on women in Indian cities, there has been public outrage against the apathy by government agencies to control the situation. The violence that often defines women in society has reached endemic proportions, becoming ordinary instead of extraordinary. Violence, necessarily, is not physical (like rape- which is the most brutal form of violence), but it may also include- stalking, voyeurism, etc. Women and children often give up on the right to education or a livelihood as a trade-off for safety. The safety of women in urban areas is welded to a truly inclusive city that affirms the special needs of all citizens, especially those who are disabled, poor or belong to different ethnicities and participatory decision-making that involves strong partnerships between civil society organizations, governments and urban local authorities, lawenforcing agencies is the need of the hour. Cities should be spaces for opportunities and personal growth rather than sites of exclusion and assault. However, more often than not, the experiences of women across the world suggest that, they turn out to be the latter, especially in contemporary Indian cities. Today, there is a growing realization about the need to create a more secure working, living and commuting environment for women in urban centers. Studies across the globe have shown that safety in public spaces ranks a close second after domestic or partner violence and sexual violence with respect to women’s safety concerns. Nonetheless, this is not a concern generally taken seriously in large-scale planning agendas. Space is not neutral and cities are designed for the neutral user. In India, the neutral user is

usually “the middle- or upper-class young male, a heterosexual who is able-bodied.” Cities can be designed to be more inclusive, but only when designs reflect an awareness of how characteristics such as age, sex, sexuality, caste, religion, economic status and difference in ability lead individuals to experience the same space quite differently.

4.4.3.6 Women at workplaces

Women in the workforce earning wages or a salary are part of a modern phenomenon, one that developed at the same time as the growth of paid employment for men, but women have been challenged by inequality in the workforce. Until modern times, legal and cultural practices, combined with the inertia of longstanding religious and educational conventions, restricted women’s entry and participation in the workforce. However, over the past three decades, workplace has become a much more diverse environment. With women representing 24.4 per cent of the total workforce in India, personal security has become central to their physical, intellectual, emotional, economic and spiritual well-being. Violence against women in the work place takes place in all countries throughout the world and takes many forms, including sexual harassment and bullying. It affects all professions and sectors and particularly women living in poverty as they are more likely to be exposed to exploitation and abuse in informal labor settings like, for example, women migrant workers.

4.4.4 Impact of the Gender System on Women

The practice of male-female differentiation results in structural deprivation of the female (of life female foeticide/infanticide – of access to health and medical services, inheritance, education etc.). Female discrimination at the behavioural level (unemployment, low productivity skills, health care, public life etc.) and infliction of atrocities (dowry harassment, eve-teasing, wife beating, rape etc.). The structural conditions affect society as a whole whereas, behavioural manifestations affect the individual in specific situation.

4.4.5 CONCLUSION

The daily reporting in various news papers and data is speaking for itself. It is confirming that everyday women are dealing with harassment from mild to extreme forms on our streets, workplaces, public transportation, and even in homes. How long will this menace go on for? What are we supposed to do about it? With limited options in our hands, and with time fast flying us by, the onus is on us to wake up and do whatever it takes. About 50% of India's registered voters are women. Women's issues need to be pushed in every lobby until the leaders have no choice but to yield and take a hold on the crisis that looms across every street and every corner of India today. This is the time we own up to ourselves. We stand by each other, tall and proud, brave and unfazed. This is the time we own up to India. No more Harassment. We want what we deserve - for us and for our daughters – a safer India for women and gender neutral India.

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